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**Human Rights Council**
**Twenty-sixth session**
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04262 (E)
*1404262*

Please recycle

# South Asia: Governments must act to eradicate poverty

1. The Asian Legal Resource Centre (ALRC) draws the attention of the Human Rights Council to the persistence of extreme poverty in Asian countries. This condition is further deteriorated by widespread hunger and lack of livelihood opportunities, which have made poverty a chronic condition. Most Asian countries have ratified various covenants that make it mandatory for the state to provide basic rights and living conditions of its citizens. While there have been reductions in poverty levels in several countries, unequal nature of development and skewed policies indicate that a majority of the population in these countries still have to face chronic hunger and poverty.

2. A cursory glance at poverty and hunger levels in various countries indicates the gravity of the situation. The Bangladesh Bureau of Statistics indicates that poverty levels have declined to 31.5% in 2010 compared to 40% in 2005. However, the analysis put urban poverty levels at 21.3% (it was 28.4% in 2005) and rural poverty levels at 35.2% (43.8% in 2005). The persistence of rural poverty needs attention as lack of resources and infrastructural deficit perpetuates poverty. There is also need for effective policies that do not lead more households to fall into extreme poverty. Despite succeeding in reducing the number of underweight children (down to 36% in 2011 from a precariously high 66% in 2005), the sheer number of malnourished children still remains unacceptably high. On its part, the Bangladesh government has conceded that it could ensure support for only 24.57% of households with at least one public safety net program over last twelve months. The difference between the official poverty level and the number of households receiving government support exposes loopholes that plague social welfare policies in Bangladesh.

3. In the case of India, poverty, hunger, and lack of livelihood options continue to affect a majority of the population, with communities on the margin being worst affected. As much as 32.7% of Indian population lives below the globally accepted poverty line of 1.25 $ USS a day, as per World Bank data. This is substantiated by official Indian government statistics produced that pegs the poverty line at a lowly sum of 17 INR in rural and 27 INR in urban centers. The "decline" in poverty has been brought about by lowering benchmarks, not by actually protecting citizens from the vicious cycle of poverty, ill health, and more poverty.

4. The situation in Nepal is worse; a staggering 3.4 million people in Nepal live in perpetual fear of hunger. The conditions have deteriorated further due to agricultural productivity not increasing along with rise in population. Moreover, nearly 5 million people have fallen below the poverty line in Nepal the past few years; consequently, poor health, malnutrition, and hunger are becoming pressing issues for the country. According to the Nepal Demographic and Health Survey (2006), half of the children below the age of 5 suffer from chronic malnourishment. The situation is at its worst in highly inaccessible regions, like the far and mid-western hilly and mountain regions. The gravity of the situation is betrayed by the fact that almost a quarter of Nepalese women have a body mass index (BMI) below normal and about 36 % of pregnant women are anemic. As per the recent Global Hunger Index in 2010, Nepal's score is 20, which make it 27$^{th}$ out of 84 ranked countries. Reports such as the World Food Programme mention Nepal as the country worst hit by malnutrition in Asia and places it on par with countries such as the Democratic Republic of Congo, Sudan, and Uganda. Add to this the fact that Nepal has faced substantial deficit of food grains in the past couple of years. Agricultural productivity has been on a decline since the 1980s and the share of agriculture to GDP has fallen from 66% to 38% in the past two decades without any corresponding increase in manufacturing or service sectors.

5. Conditions in Pakistan also indicate widespread poverty; figures from mountainous and far-flung regions indicate more poverty than the rest of the country, despite a real decline in poverty between 2001 and 2005. A pressing concern in Pakistan, ranked 146th out of 187 countries on the United Nations Development Programme's 2013 Human Development Index, is agricultural reform, without which no improvements are expected. With a sizable section of the population dependent on agriculture, single crop failure due to any reason pushes scores of families into the debt trap. The scarcity of water resources compounds the problem, more so in areas like Tharparkar in Sindh, which has no irrigation channels of its own and is completely dependent on rains for water needs. This reflects in the geographical variations in the incidence of poverty in Pakistan, where the coastal belt and low rainfall areas also suffer from higher incidence of poverty.

6. Politically, these problems are often compounded by the neoliberal model of development, which has left large sections of national populations impoverished, forcing states to withdraw from welfare schemes and service delivery

systems. Among the factors perpetuating food insecurity in the region, faulty prioritization of concerns by national elites requires mention. At the ground level, weak and opaque delivery mechanisms exacerbate the problem. That corruption is rampant across Asia is something internationally accepted; most of the funds meant for target communities rarely reach them intact. Embezzlement, theft, and corruption in the system are part of life in many of these countries and allow only a small amount of funds to reach intended beneficiaries. This malfeasance is guarded by the lack of transparency, no checks and balances, and the lack of the rule of law.

7. It is in this context that the United Nations Human Rights Council, a vital global institution, must intervene and press upon South Asian governments to snatch their citizens back from the maws of poverty. This would require the United Nations and the various bodies and people associated with it to inquire into the structural impediments that perpetuate poverty. They must criticize these countries for having virtually abandoned a section of their population, while allowing for spectacular economic growth for others.

8. The Asian Legal Resource Centre urges the Council to:

a. Ask the respective governments to identify structures that perpetuate poverty and stop citizens living in extreme poverty from the full enjoyment of their human rights. The council must ask the governments to take immediate steps to protect and promote the peoples' rights;

b. Ask the governments to pay particular attention to the marginalized and dispossessed communities, such as women, elderly, the disabled, and those hailing from lower castes, classes, and indigenous communities. The council must also ask the governments to investigate discrimination along caste, communal, and gender lines and bring an end to the same as such discrimination perpetuates poverty, and;

c. The Council must also ask the governments to engage with the people living in extreme poverty when making policies for their benefit.

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**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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*1404275*

Please recycle

# Humanitarian and Human Rights situation in South Sudan

Civilians in South Sudan have been the main targets in the recent ethnic violence that likely killed more than 10,000 people since December 15, 2013. During the violence committed by the regular army as well as by rebel forces associated with former South Sudan Vice-President Riek Machar, thousands of South Sudanese and foreigners were raped or arbitrarily arrested, tortured or their belongings were looted and their houses were burnt. The Government of South Sudan insists that the unrest was sparked by a failed military coup in the capital of Juba. The ousted Vice President Machar and many observers have been denying the allegation of a coup.

While the trigger for the violence remains in dispute, the tremendous impact of the fighting which started in mid-December and the horrendous scale of mass human rights violations committed by all conflict parties have shocked the world. At least one million civilians have fled the violence, searching for protection in other states of South Sudan or in neighboring countries. Continual fighting has caused widespread hunger and a desperate need for international humanitarian relief.

The civilian population is harmed by a total lack of protection by the regular security forces which were involved in massive intimidation, arbitrary killings and massacres. In the mostly Christian South Sudan not even female church workers could count on protection. Scores of them were killed in January 2014 while seeking refuge from rebel attacks at St. Andrew's Episcopal Church compound in Bor, when rebels descended on them, raping several women before shooting the church workers at close range. Several churches were attacked and looted, pastors were harassed. Immediately after fighting broke out between Nuer and Dinka soldiers of the Presidential Guard in Juba on December 15, 2013, members of the Presidential Guard and other security forces targeted ethnic Nuer citizens in the South Sudan capital. More than 600 Nuer civilians and soldiers were killed, some 800 people were wounded in the violence. Official security forces launched house-to-houses searches in neighborhoods of Nuer citizens and arbitrarily arrested or murdered many Nuer between December 16 and 18. More than 30.000 Nuer searched for protection in the two UNMISS bases in Juba, thousands ethnic non-Dinka fled from the city to shelter in other regions of South Sudan or in neighboring countries.

But violence has spread to other cities in January and February 2014, despite a cessation of hostilities agreement signed on January 23, 2014. Scores of women have been raped in a wave of sexual violence committed by regular soldiers and rebels. A survivor of sexual violence has reported about the abduction of ten women in Juba who were gang-raped by soldiers in an empty hospital. Massacres were committed in Malakal, Bentiu, Bor and other cities of South Sudan. After the town of Bentiu was taken by rebels in mid-April 2014, hundreds of Dinka civilians and merchants from Darfur who sheltered for protection in mosques, churches and private houses were taken to the streets and deliberately murdered. A survivor reported that 48 merchants from Darfur who had searched for protection in a private house, were taken to the street by rebels, lined up and then gunned down. Hate messages were broadcast in local radio stations urging the population to rape and murder Dinka or Nuer who were not enthusiastic about the victory of the rebel forces.
State security forces and armed rebels blamed each other numerous times for ceasefire violations and massive human rights violations. But no conflict party has accepted responsibility for the crimes against humanity which have been committed since December 2013.

The recent upsurge in massive human rights violations didn't come unexpected. The human rights situation in South Sudan has been deteriorating steadily since the new state has been established in July 2011. Society for Threatened Peoples has warned for several years that South Sudan authorities have deliberately been violating the right to press freedom. South Sudan journalists continuously were intimidated, arbitrarily arrested or became victims of armed attacks of unknown assailants. Media rights have been eroding in 2014, South Sudan journalists are complaining. Since the fighting started in December 2013 the entire print of the daily "Juba Monitor" was confiscated by officials four times. Frequently, journalists have been questioned by security officials. The South Sudan Government denied having harassed media staff. In March 2014, presidential spokesman Ateny Wek Ateny declared National Security officials had not brought in any journalists for questioning but had offered them "advice because some journalists are very irresponsible and they write very irresponsibly."

Society for Threatened Peoples calls on UN Human Rights Council to urge the Government of South Sudan to:

- Respect the cessation of hostilities agreements;
- End Impunity and to put all those on trial who were responsible for massive human rights violations since the violence started in December 2013;
- Guarantee and respect the freedom of press;
- Ensure the protection of civilian population in conflict areas;
- Stop corruption and to enhance good governance.

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*1404283*

Please recycle

# The Illegal Plundering of Western Sahara Resources

## 1. Western Sahara as a Non-Self-Governing Territory

Since 1979 the territory of Western Sahara has been occupied by the Kingdom of Morocco. Until today the United Nations have not recognized Western Sahara as part of Morocco. In the ceasefire of 1991 the Moroccan state and the Polisario agreed on a referendum in Western Sahara whereby the domestic population should decide about its independence. Due to disagreements between Morocco and the Polisario the referendum has not taken place until today.

With regard to international law, Western Sahara still has the status as a Non-Self-Governing Territory. According to the letter dated 29 January 2002 by the former Under-Secretary-General for Legal Affairs, Hans Corell about the exploration of mineral resources in Western Sahara, the exploitation and plundering of marine and other natural resources is in violation of the relevant United Nations resolutions. The administering powers, in this case the Kingdom of Morocco, are obligated to safeguard the resources until the final determination of the territory is clarified.

There are clear signs that the Kingdom of Morocco does not adhere to this commitment, thus breaking international law. Especially the digging of phosphate, the tapping of the finite water reserves of Western Sahara, the exploitation of the fishing ground on the Atlantic shore and the oil exploration on Western Sahara ground cause concerns about the integrity of the territory. In addition to the exploitation of natural resources, international companies invest, with the permission of the Moroccan government, more and more in alternative energy projects on Western Sahara territory.

## 2. The Plundering of Western Sahara Resources

### 2.1. Phosphate Extraction

Western Sahara owns the second largest global reserves of phosphate. Although the digging of phosphate on Western Sahara territory is illegal, Morocco excavates phosphate in the Bou Craa phosphates mines, which belong to the Western Sahara territory. Around ten percent of Moroccan phosphate production derives from this area. From the Cou Craa mines phosphate is transported via a conveyor belt to the El Aaiún harbour, where the it is shipped abroad. Phosphate is probably the most valuable resource on Western Sahara ground and would be an important source of capital of a future independent state.

### 2.2. Fishery on Western Sahara Shores

Western Sahara has huge fishing resources, maybe even the biggest fish population in the world. Around 78 percent of Moroccan fish come from the Western Sahara territory. 74.000 Moroccans are working in the fishing industry on Western Saharan ground. Morocco does not just use fish for its own market but also sells it to other countries. In some cases the Kingdom sells fishing licences to other states. Morocco made several agreements with other countries and with the European Union about fishing on Moroccan shores, including the shore of Western Sahara. According to Corell, fishing in an area characterized as a Non-Self-Governing Territory is in violation of international law.

### 2.3. Growing of Vegetables

In recent years, the growing of vegetables on Western Sahara territory has increased. The Moroccan government is planning to raise the production of vegetables as part of the 'Green Morocco Plan' until 2020 with the goal to export most of the vegetables to foreign countries. Since the European Union and the kingdom of Morocco made a free trade agreement about agricultural and fisheries products in 2012, the export of vegetables will increase even further. The growing of vegetables results in a high consumption of water, which is a rare resource in this area. Consequently, farmers have to tap the 300 to 600 meter deep finite water reserves to irrigate the fields.

### 2.4. Oil Exploration

According to the previously mentioned letter by Hans Corell from 2002, further exploration on Western Sahara ground is in disregard of the interests and wishes of the people of Western Sahara and are therefore in violation of international law. Since 2001 foreign oil companies are searching for oil especially in offshore areas of Morocco and Western Sahara. Today, at least four oil companies ('Total', 'Kosmos Energy', 'Cairn Energy' and 'Island Oil and Gas') are suspected of exploring oil on Western Sahara territory. According to the information given on their website, Cairn Energy does oil exploration in Cap Boujour, which is part of Western Sahara.

### 3. Demands on the Kingdom of Morocco

Society for Threatened Peoples calls on the Human Rights Council to urge the government of the Kingdom of Morocco to:

- End the plundering of Western Sahara phosphate mines;
- Stop professional fishing on Western Sahara offshore territory. Fishing agreements with other countries and the European Union need to be abandoned;
- End the growing of vegetables on Western Sahara territory and ensure the integrity of the underground water reserves;
- Stop oil explorations on Western Sahara offshore territories.

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GE.14-04309
*1404309*

Please recycle

# ASIA: Council must urge governments to rein in big businesses violating human rights of the people

1. While celebrating extraordinary tales of economic growth, many of the Asian countries have seen their citizens falling through the cracks. Even a cursory glance at the recent stories of growth and development in these countries shows how inequitable it has been for those at the margins of society. Many hardships are faced to access what should be theirs as a matter of right. Unfortunately, the big corporate houses have often been found to be behind many of the human rights violations despite their claims of being champions of corporate social responsibility.

2. This written submission refers to conditions in Bangladesh, People's Republic of China, India, Indonesia, Nepal, Pakistan, and the Philippines. In many of these countries a substantial section of the population stands at the threshold of poverty and food insecurity due to skewed development policies adopted by their governments.

3. Large scale land acquisitions facilitated for establishing special economic zones (SEZs) aimed at encouraging manufacturing in India and for promoting export-oriented agriculture and land development in the Philippines come across as the worst examples of sacrificing people on the altar of development. The push for SEZs requires about 50,000 hectares of agricultural land for SEZs and that increases to a whopping 1.49 lakh hectares if one includes all projects which include industrial, mining, irrigation and infrastructural projects. The evidence shows that the authorities in India have often used coercive force for the acquisitions and have seldom compensated the people adequately.

4. 2000 acres of land being handed over to POSCO in the name of 'public interest' is a case in point. The lands are being claimed as government land and are acquired by the Industrial Development Corporation of India (IDCO) but they are in fact public land, which forest dwellers, farmers and adivasis (indigenous people) have been depending on for generations. Just like the air, sea, or river, those who depend on the forest for their survival, have so far shared it. They have their own rules for its use, protection and conservation, set up over generations. The government, acting at the behest of POSCO, has acquired the land forcibly, displacing more than 22,000 people even by the most modest estimates. It has further cut down some 60,000 trees on this land already and is ready to cut down an estimated ten times more. Deforestation may only benefit the POSCO and indirectly the government from the revenue generated from the project. The environmental impact caused by the massive deforestation is of no 'public interest', nor is it 'public responsibility' to bear the long-term consequences of deforestation. Similar are the stories of many such projects being carried out for the corporations across the country.

5. The absence of a clear land use policy in the Philippines has led to a lot of land being appropriated by the big agribusiness companies often at the cost of small and marginal farmers' rights and food security. The mushrooming of such projects has also resulted in large scale internal displacement or land dispossession of farmers and has even reduced them to farm labourers. There are also reported cases of involuntary disappearances of farmers and/or activists opposed to the big agribusiness companies. Mining is another woe for the poor of the Philippines with Mindanao, the mining capital of the country, being worst affected as more than half of the region's 2.4 million residents live in poverty. This has caused a huge unrest in the area with people protesting against the corporations. The situation is not much different for the urban poor whose habitats are being demolished for various projects. The ALRC, for example, has intervened in the case of an ongoing demolition drive affecting more than 5,500 families, or 30,000 people of San Roque, North Triangle, Quezon City. The demolition and eviction drive to make way for the implementation of the Vertis North Project under the Quezon City Central Business District has exposed the affected citizens to severe hardships while also endangering their livelihood and thereby pushing them towards poverty. Many other communities in the Philippines are living under perennial threat of getting displaced.

6. Huge tragedies like Rana Plaza building collapse in Bangladesh that killed 1137 workers and left another 1000 with serious injuries have brought to the fore the rampant violation of labour and human rights of workers by big businesses. Turned literally into a sweatshop for global brands with some 4,500 garment factories employ approximately 4 million workers, Bangladesh has seen many calamities like this. The blaze in multi-floor Tazreen Fashion factory in the Ashulia district on the outskirts of the capital Dhaka that killed more than 100 workers in 2012 is just one of countless examples of the death traps that are passed off as factories in Bangladesh. Unfortunately, neither the government nor the business has owned up their role in making of the disasters and they have failed to bring into any serious reforms into the living and working conditions. Many of the big companies like Benetton, Bonmarché,

Mango, Matalan, Primark and Walmart whose labels were found in the dust have refused to pay compensation to those injured and killed in the Rana Plaza collapse. Some like Walmart are contesting the claims that their label was being manufactured there. The response of the government of Bangladesh is worse which has asked the relatives to prove that their kith and kin worked in the complex to get compensation and has even required them to provide DNA evidence, an impossibility in the cases of over 300 bodies charred beyond recognition, that a certain body is that of their own kin.

7. Land grabbing, especially for Palm oil, has emerged as a serious issue in Indonesia as well and is threatening scores of small farmers with imminent loss of their livelihood opportunities.

8. The situation demands an immediate action from the international community for initiating land and labour reforms and put an end to the continuing violation of the rights of the people. The United Nations Human Rights Council, a vital global institution, must stand in the forefront of these actions instead of merely asking Asian governments to take action on their own which they are most unlikely to take in any case. The Council must seriously consider making the corporate social responsibilities into an international law obligation by substantially developing international law which is visibly lacking at the moment. The Council must also take notice not merely of the adverse impacts on communities affected by projects but also criticize the countries where these big businesses are based and urge them to rein them in.

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# Joint written statement* submitted by the New Humanity, non-governmental organization in general consultative status, Organisation Internationale pour le Droit à l'Education et la Liberté d'Enseignament (OIDEL), Apprentissages Sans Frontières (ASF), Association Points-Cœur, Associazione Comunità Papa Giovanni XXIII, the Dominicans for Justice and Peace (Order of Preachers), International Catholic Child Bureau (ICCB), the International Federation of University Women (IFUW), Istituto Internazionale Maria Ausiliatrice (IIMA), the Mothers Legacy Project, the Catholic International Education Office (OIEC), the International Volunteerism Organization for Women, Education, Development (VIDES), non-governamental organizations in special consultative status, Mouvement contre le Racisme et pour l'Amitié entre les Peuples, non-governamental organization on the roster.

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*1404311*

Please recycle

# Assessment of the educational attainment of students and the implementation of the right to education*

We welcome the Report of the Special Rapporteur on the right to education, Kishore Singh, entitled *Assessment of the educational attainment of students and the implementation of the right to education (A/HRC/26/27)*as the continuation of his previous report concerning quality education and normative action (A/HRC/20/21) presented in 2012. Indeed, assessment of the educational attainment of students is essential for measuring quality education and thus implementing the right to education. We would like here to recall Mr. Singh's proposition of a holistic conceptual framework for quality education which comprises: "(i) a minimum level of student acquisition of knowledge, values, skills and competencies; (ii) adequate school infrastructure, facilities and environment; (iii) a well-qualified teaching force; (iv) a school that is open to the participation of all, particularly students, their parents and the community."[1]This framework needs to be considered and carried out in order to ensure quality education in a more efficient manner.

We are pleased to see that the Special Rapporteur recommends in his report that assessment of students' attainments should be based on the four pillars of education, as described in the report to UNESCO of the International Commission on Education for the Twenty First Century, known as the Delors Report –This pillars include: learning to know, learning to do, learning to be and learning to live together. In this regard, we appreciate the Spain's new education law for his commitment in assessing students' attainments.

In the same terms, we completely agree with the recommendation made to States to move forward to a more holistic approach in assessing students' attainments which goes beyond reading, writing and arithmetic, including in this new approach the essential human rights objectives. Although it has been a step in the right direction to have the first assessments based on reading, writing and arithmetic (such as PISA), education is much more than that. So assessment should be founded on a human-rights based approach. We do acknowledge the improvements made in this sense by China.

It is also important for us to see that the Special Rapporteur recommends student-based evaluation mechanisms in order to see the progress of each student aside from school standards. This approach about assessment mechanisms is extremely important for two primary reasons. Firstly, it will allow us to see the reflection of the local and national curriculum requirements. Secondly, a personalized assessment for each student is extremely helpful in applying inclusive education. It provides constructive information for teachers in order to support students to complete each module, and to ensure progressive improvement to vulnerable groups in particular. Ecuador has made good efforts in order to achieve this goal.

We are glad to see that the recommendations made by Mr. Singh related to assessment mechanisms are not limited to primary and secondary education, but apply also to technical and vocational education and training (TVET). We are concerned about the importance of this formation due to its profound implications in the twenty-first century new economy. That is why we think such an important form of education must be assessed like the others, including a holistic approach. An exemplar country in the assessment of TVET is South Africa.

We are pleased to observe the importance of providing teachers with additional training and support. As far as we understand the key role of teachers to improve quality education they need to receive continuing training for two main reasons: 1st. To learn and teach a curriculum that should be periodically updated because of new discoveries in science and the new important historical events that may have happened 2nd. To know and understand which human rights values or democratic principles should be embedded in the curriculum, depending on the local circumstances.

[1] SINGH.K.*Report of the Special Rapporteur on the right to education, Normative action for quality education* (2012) (pag.6, paragraph 21)

We greatly appreciate the efforts of the Special Rapporteur, especially for the significant suggestion he has made to add the important issue of Quality of Education in the post-2015 agenda. We are living in a changing world with a lot of new challenges that education must meet -increased migrations, the increase proportion of jobs in the tertiary level, the increasing importance of information technology and its access. At the same time, education systems must radically evolve due to several deep changes new challenges they have to face –for example: the access to information that students have is changing the role of teachers, the financial problems of the school need a new answer, the definite integration of human rights approach in education programs. Thus, these reasons, together with the extreme importance of the creation of an international quality framework, should have an essential role in ensuring worldwide development in the following years. We would like to reference here our position paper "*Post-2015: Development Guided by the Principle of Human Dignity*" where the NGO Platform on the right to education explains in more details our point of view. [2]

Finally, although Mr. Singh has commented that "government encourages NGOs and civil society organizations in their valuable role in raising the level of the public debate on key issues and in defending a holistic approach to student assessments"[3] we want to emphasize again the importance of civil society and NGOs as guarantors of quality education. We would like to encourage States and governments to maintain constructive dialogue with them.

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* The UNESCO Chair of the University of Bergamo, the UNESCO Chair of University of La Rioja, the Collège Universitaire Henry Dunant and Mission Educative Lasallienne, without consultative status, also share the views expressed in this statement.

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[2] http://www.ngoeducation.org/Plateformedroiteducation/documents/Platform_Education%20post%202015%20_final_EN.pdf

[3] SINGH.K.*Report of the Special Rapporteur on the right to education, Assessments of the educational attainment of students and the implementation of the right of education* (2014) (pag.20, paragraph 96)

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**Human rights situations that require the Council's attention**

# Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

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*1404310*

Please recycle

## Situation in the Central African Republic

Society for Threatened Peoples is deeply concerned about the stigmatization and dehumanization of the Muslim minority in Central African Republic (CAR). After the Interim President Michel Djotodia was forced to step down in January 2014, the attacks against the Muslim population have escalated and are overwhelming in their brutality. Tensions escalated in the capital Bangui and most of the 80,000 Muslim inhabitants of the city have fled to the north of CAR or to neighboring states. The failure of international as well as African peacekeepers and regular armed forces to provide protection for minority people has caused an exodus which has been shocking and might constitute a crime against humanity. The exodus of Muslim merchants has caused a breakdown of the economy which has devastating effects on the search for sustainable peace and respect of basis human rights in CAR.

There is no justification for ethnic hatred and the deliberate targeting of an entire religious community despite the fact that Seleka fighters were mostly Muslim and have committed atrocious human rights violations against Christians in the years 2013 and 2014. Nobody has the right to vengeance and it is up to the judicial system to end impunity for crimes committed by Seleka fighters.

Outside of the capital Bangui state and law authorities are mostly non-existent. In most towns and villages there is nobody to implement law and to make sure that every massive violation of human rights will be brought to court. Most schools have remained closed in the past six months. Public life has come to a halt. Instead of justice, violence and terror are prevailing. Anti-Balaka militias have imposed their rule in most rural areas in western CAR. They have started to chase all Muslims in the regions they are controlling. After chasing those citizens of another faith, they are now targeting other minorities such as the indigenous Pygmy people. There is a desperate need for law and order especially on behalf of minority people who are protected by nobody.

Furthermore, CAR authorities should investigate the background of recent lootings and massacres in villages where no policemen or regular soldiers were able to provide protection to the civilian population and could ensure the respect of law. Nearly every week, there are new massacres or politically motivated violence. Every week, up to 90 people die in these incidents.

There is no real progress made in reconciliation between Christians and Muslims despite official claims that so-called programs have been launched. It should be of utmost priority for the government of CAR to intensify credible initiatives for reconciliation and to ensure a common understanding on basic human rights of minorities.

The crisis in CAR needs more international commitment and engagement to promote good governance and the respect of law. If the international community continues to ignore the horrendous extent of violence, the conflict might destabilize the entire region of Central Africa.

Society for Threatened Peoples calls on the UN Human Rights Council to urge the Government of CAR to:

- Ensure a better protection from violence for the civilian population especially for minority people,
- End impunity,
- Concentrate on rebuilding public life and the respect of law,
- Disarm all militias and to build up the state security sector,
- Enhance reconciliation efforts in order to overcome violence and mistrust.

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**Twenty-sixth session**
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**Human rights situations that require the Council's attention**

# Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04308 (E)
*1404308*

Please recycle

# Witchcraft Killings in Africa

The lives of elderly people in Kenya and many other African countries are increasingly threatened since the remarkable upsurge in witchcraft killings. Among the Giriama ethnic group, living South of Mombasa at the Kenyan coast, there has been a significant increase in killings since the 1980s. Today, every month some 90 elders of the Kiriama people get killed after having been accused of being a witch. The case of the Kiriama is only one example for a phenomenon which is widespread in many African states.

Every state has an obligation to protect its citizens from harm and threats to their life. Witchcraft killings are not a new phenomenon, but they have increased massively since colonial times. Nowadays, the escalation of witchcraft killings may change the demography of many ethnic groups and lead to the extinction of elderly people among many impoverished ethnic groups in Kenya, Tanzania, Nigeria, Cameroon and Zambia. There is an urgent need for states to act to prevent that an entire generation and their knowledge of traditions and culture might disappear in a brutal wave of killings. Furthermore, the state of Kenya has an obligation to act to ensure that elderly people are living without constant fear of being murdered only due to their advanced age.

The national, regional and local authorities in Kenya have failed to provide adequate protection for elderly people despite repeated warnings and appeals by local NGOs highlighting the dramatic plight of elderly people. Impunity prevails regarding most crimes committed in the context of witchcraft killings because very often family members are involved in the killings, being reluctant to cooperate with the police. Sometimes the police doesn't want to become involved in family matters and abandons the criminal investigation at a preliminary stage. In many cases the police is unaware of the criminal intent of actions by family members who are presenting the death of the elder as an accident. In these cases the police even does not open a formal criminal investigation. Knowing the background and the extent of witchcraft killings the Kenyan authorities should do more to end impunity, otherwise they are inciting more violence against elderly people. To effectively solve witchcraft disputes it should be allowed to refer the case to the traditional justice system.

Despite the desperate need for more effective criminal investigations state authorities should launch more awareness campaigns to educate the people on the difference between healers, diviners and witches and promote more respect for elderly people.

There are many factors leading to the upsurge in killings of elderly people as so called witches: business rivalries, conflicts between generations, inheritance conflicts, lacking respect of elderly people. But impoverishment in rural areas is one of the leading forces behind this wave of killings. Therefore the state should dedicate more programs to fight poverty. Good governance on all administration levels would encourage the respect for the law by all citizens.

Many of these programs only will take effect after years. In the meantime, the government of Kenya should concentrate to cooperate with local NGOs in building up rescue centers for elderly people. These rescue centers should be open to all elderly people not feeling safe at home and should be guarded by police. State authorities should do their utmost that these centers will be self-sufficient, but the inhabitants should be able to maintain a good relationship with their families and with people living outside of these centers.
The anti-witchcraft law of Kenya should be repealed or amended urgently because this law is inciting more violence instead of preventing new killings. It lacks respect to traditional systems of conflict resolution which might be more effective than trying to launch official criminal investigations.

Society for Threatened Peoples calls on the UN Human Rights Council to urge the Government of Kenya to:

- Ensure an effective protection of elderly people to save them from witchcraft killings;
- Create self-reliable rescue centers for elderly people;
- Launch awareness campaigns on the difference between traditional healers, diviners and witches;
- Repeal or amend the anti-witchcraft law;
- End impunity for witchcraft killings;
- Promote more programs to fight poverty, especially in rural areas.

United Nations A/HRC/26/NGO/70

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**Human Rights Council**
**Twenty-sixth session**
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**Human rights situations that require the Council's attention**

# Written statement* submitted by Mouvement contre le racisme et pour l'amitié entre les peuples, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

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*1404307*

Please recycle

# The human rights and humanitarian situation in the Northern region of the Syrian Arab Republic

The Syrian conflict has entered its fourth year. According to the Britain-based Syrian Observatory for Human Rights, more than 160,000 people have been killed since the conflict began on March 15, 2011, roughly half of them civilians. The conflict has until now displaced more than nine million people, with 2.5 million refugees living outside Syria and 6.5 million displaced within the country.

MRAP has since the beginning of the conflict sought to draw particular international attention to the disastrous effects of the war on the civilian population and the suffering of large refugee communities in Syria's neighbouring countries. Moreover, MRAP has continually warned for the escalation of sectarian and ethnic violence within the conflict, which is targeting vulnerable communities and innocent civilians on grounds of religious and ethnic identity.

Since the end of the two-year siege on Homs and the last evacuation of rebel fighters from the old city, the conflict has intensified in northern Syria, and the humanitarian situation in this part of the country is therefore now of grave concern, particularly in the Aleppo region. As siege warfare is increasingly adopted for conduct of hostilities, especially in urban areas, the issue of humanitarian aid and access is of crucial importance in the approaching months. Several regions and enclaves in northern Syria with populations of hundreds of thousands of civilians are facing periodical sieges on their cities and localities. The sieges are imposed by either government forces or rebel armed groups. The imposition of sieges in Aleppo, Homs, Ayn Al-Arab, Yarmouk, Afrin, Nubul and Zahra have so far denied large communities basic access to food, water, electricity, medicine, hygiene and sanitation items.

In light of this development the UN Security Council, in resolution 2139, adopted on 22 February 2014, made an important call, addressing all parties to "allow the delivery of humanitarian assistance, including medical assistance, and cease depriving civilians of food and medicine indispensable to their survival". The resolution also called on rapid, safe, unhindered, and immediate humanitarian access for aid agencies, in order to ensure that relief supplies can reach people in need through the most direct routes. In this context the resolution also called for cross-border delivery of aid and assistance from neighbouring countries into Syrian territory, where such actions could provide help to Syrians in urgent need. With this, however, follows several important issues regarding border control and security, which need to be expressly highlighted as cases of gross human rights and humanitarian law violations, have been perpetrated in the border regions.

The regions close to the 900km-long Turkish-Syrian border are composed of a rich diversity of ethnic and religious communities, respectively including Arabs, Arameans, Armenians, Assyrians, Circassians, Kurds and Turkmens, and Muslims, Christians and Druze. The various minority groups have lived side by side for centuries. However, the emergence of hundreds of extremist armed groups, with radical and sectarian ideologies or direct association to organizations such as Al-Qaeda, poses a substantial threat to these communities. During last year there have been violent attacks on the civilian population in these border regions, and many incidents occurred merely on the basis of religious or ethnic identity. The recent attack by radical armed groups in April 2014 on the Armenian village Kassab, in Latakia governorate, is a sad and unfortunate example of this.

Furthermore, in the Kurdish regions that are under de facto control of Kurdish political groups since July 2012, when government forces withdrew from Afrin, Ayn Al-Arab and parts of Al-Hasakah, there have been similar attacks on civilians on the basis of their ethnic identity. The worst attacks were on the ethnically mixed town of Tal Abyad in Ar-Raqqah governorate, where Kurdish civilians were forcefully displaced from their homes amid arrests, killings and looting. Thousands of civilians were forced to leave their homes within 48 hours or to face armed attacks.

In both these instances, fighters belonging to extremist armed groups have been able to operate across the Turkish-Syrian border to carry out their operations. This has been widely reported and documented by journalists, humanitarian workers and human rights organizations. As the risk of attacks by the extremist groups on both sides of the border has increased, Turkish authorities have occasionally imposed stricter control of some parts of the border in an attempt to improve the border security. Yet, the situation on the Syrian-Turkish border continues to be of serious human rights and humanitarian concern.

MRAP will continue to monitor the development on the ground, and report on violations of IHL and IHRL; while supporting UN and humanitarian agencies, as well as human rights and refugee organizations, in their work to protect innocent civilians and victims of the Syrian conflict.

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**Human Rights Council**
**Twenty-sixth session**
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**Human rights bodies and mechanisms**

# Joint written statement* submitted by the International Cooperation for Development and Solidarity (CIDSE), a non-governmental organization in general consultative status, Bischöfliches Hilfswerk Misereor e.V., Swiss Catholic Lenten Fund, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*1404304*

Please recycle

# UN Business and Human Rights Framework: Developing an intergovernmental process towards a binding instrument*

In its 2011 resolution, the UN Human Rights Council recognized the role of the UN Guiding Principles on business and human rights as a contribution to enhancing standards and practice, "without foreclosing any other long-term development, including further enhancement of standards."

The UN Protect, Respect and Remedy Framework and its Guiding Principles set out clearly that business impacts require a "smart mix" of policy responses that goes beyond voluntary standards and includes regulation. CIDSE and its member organizations believe that if the Framework and Principles are implemented effectively in this way, they could be a valuable tool for reducing the risk of human rights abuses. Therefore we are actively engaging in national discussions on Business and Human Rights Action Plans and working with our partners to monitor and evaluate the situation on the ground.

Yet implementation by States and companies has been very slow, and States' efforts so far have given little attention to legal measures. At its June 2014 session, the Council must take its responsibility to review the situation and consider remaining gaps requiring complementary, targeted further steps in order to strengthen the collective framework, especially in relation to access to judicial remedy.

There is urgency. A wide number of communities and individuals are suffering abuses and violations of a range of human rights now as a result of business activity. By some measures, the situation has even worsened since 2011, as for cases of social conflict, criminalization of protest related to business investments and killings of human rights defenders. Access to justice and remedy continues to be denied to communities in numerous countries, also highlighting the need for effective extraterritorial actions by States where multinational companies are based. The case for further international action is supported by the UN Office of the High Commissioner on Human Rights (OHCHR) study on domestic law remedies for corporate involvement in gross human rights abuses.

The OHCHR study follows on from former Special Representative John Ruggie's call upon States in 2011 and subsequently to address the weaknesses and inconsistencies in the legal protection of human rights related to gross human rights abuses. Recognising this and other gaps in the Guiding Principles, several initiatives are calling for an international treaty or instrument.[1] Civil society and Church voices across the globe are demanding more effective responses. The growing impatience in many countries has been marked by the Ecuador initiative for a binding instrument.

One year ago, one of the most devastating catastrophes in the textile sector happened with the collapse of the Rana Plaza building in Dhaka, Bangladesh. This disaster illustrates the shared obligations and responsibilities of multiple States, transnational and national enterprises. There is a clear need for instruments that match the reality of today's global corporate structures and business relationships, also to provide a level playing field for all businesses.

We recognise that the complex challenge of preventing corporate abuses of human rights will require a range of creative approaches, not one single solution. In France, parliamentarians have proposed to establish a duty of care for multinational corporations, to prevent damages to the environment, health and human rights within all their economic relationships.[2] An international instrument requiring national legislation enacting corporate legal liability for serious violations of human rights would serve both as an incentive for businesses to undertake proper human rights due diligence, and to repair harm done where they fail. This would build upon and strengthen the approach to human rights due diligence articulated in the UN Guiding Principles.

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[1] See Call for an international legally binding instrument on human rights, transnational corporations and other business enterprises, People's Forum on Human Rights and Business, Bangkok, November 2013.

[2] Proposition de loi n°1524, Devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, November 2013.

The September 2013 statement to the Human Rights Council in favor of a binding instrument, supported by 85 States, is an indication of the depth of support by a number of States and a favorable sign for implementation. A legally binding instrument addressing the shared responsibilities of multiple States and businesses in preventing and remedying situations of human rights abuses, such as the Rana Plaza disaster, could remove obstacles to individual States and businesses moving independently of others. With an effective monitoring and follow up mechanism, this could make a real difference on the ground. It is certainly worth developing in-depth thinking about the pros and cons of different regional and international instruments, without simply closing down the debate.

If we are to see wide-scale reductions in instances of human rights abuses as a result of business activities, it is important to make progress in parallel both on implementation of the Guiding Principles, and in discussions on a binding international instrument, building on efforts to date.

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* CAFOD, England and Wales; Entraide et Fraternite / Justice and Peace Commission Belgium; KOO / DKA Austria; Trocaire, Ireland; SCIAF, Scotland NGO(s) without consultative status, also share the views expressed in this statement.

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**Human rights situations that require the Council's attention**

# Written statement* submitted by Sign of Hope e.V. - Hoffnungszeichen, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*1404303*

Please recycle

# Legal System, Conflict and Human Rights in South Sudan

The present conflict in South Sudan has created room for gross human rights violations.
Although the current conflict can be seen as a struggle for power and control over economic resources, Sign of Hope wishes to point out that the systems of customary revenge killings and blood compensation might be one of the root causes of conflict, that need to be addressed in order to achieve peace and as a consequence, a significant reduction of grave human rights violations.

Present conflict causes human rights violations

The conflict between the Sudan People's Liberation Army (SPLA) and the Sudan People's Liberation Army in Opposition (SPLA i.O.) has undoubtedly created widespread human rights violations against non-combatants.

On 8 May 2014, the United Nations Mission in South Sudan (UNMISS) released a public report on the gross violations of human rights and serious violations of international humanitarian law that have occurred since the conflict broke out in Juba on 15 December 2013. The report, entitled "Conflict in South Sudan: A Human Rights Report", describes the widespread negative impact that the conflict has had on the human rights situation in many parts of the country. The report states that there are reasonable grounds to believe that gross violations of international human rights and humanitarian law have been committed by both parties to the conflict. Violations include extrajudicial killings, enforced disappearances, rape and other forms of sexual violence, arbitrary arrests and detention, targeted attacks against civilians, and attacks on hospitals as well as against UN facilities, the peacekeeping mission and its staff.

Additionally, Sign of Hope wishes to point out that on 7 February 2014 an outpost of its own medical facility in Nyal (southern part of Unity state) came under attack in the course of the conflict between SPLA and SPLA i.O. groups. According to local sources the clashes in the area on that day resulted in 60 deaths and the village of Panyijar being heavily damaged. The Sign of Hope Primary Health Care Unit in Kanynhial came under direct attack and was destroyed. Eight patients who were waiting for medical treatment were killed during the attack on 7 February 2014.

Revenge killings and blood compensation in the absence of statutory courts as one root cause of widespread violence

Customary Law can be understood as the manifestation of the customs, beliefs and practices of the people of South Sudan. Customary law remains a main source of law in South Sudan at present. The vast majority of criminal and civil cases are executed under customary law. Of the roughly fifty customary law systems in South Sudan only very few exist in written form. Customary law is not in itself a source of conflict. The basic intention of customary law is reconciliation and conflict resolution.

Yet, the customary law regime has been controversial in the human rights community because these systems often fall short of internationally accepted standards of human rights, particularly with respect to the protection of women and children. In that context some components enshrined in customary law need to be revised and harmonized with statutory law, international human rights and humanitarian law.

In many of South Sudan's customary laws, the death penalty can be used as revenge for murder or homicide. The family of the killed person can pardon the killer, demand compensation or the execution of the offender. When the option of blood compensation is chosen, this might encourage wealthier families and clans to practically act with impunity since they could afford to pay blood compensation in kind or cash in cases of homicide or murder. When the execution of the offender is chosen under customary law, this amounts to a revenge killing which might trigger subsequent counter-revenge killings and thus an escalation of violence. Violence then has the potential to continue indefinitely forming frequently a root of larger conflicts.

Even if there is a political will to overcome these traditional ways of conflict management, the state's legal system presently is too weak to comprehensively take over its actual tasks.

According to the United Nations Development Programme (UNDP), there is a lack of fully trained and experienced judges, lawyers, police and prison staff in South Sudan. With fewer than 200 statutory judges for eight million people and almost no legal aid, sufficient capacity in the legal system remains a serious challenge. Much of the population has little confidence in the state's institutions in the field of justice, and they have little information about the formal legal framework. They rely instead on customary mechanisms.

The widespread corruption within South Sudan (see letter of President Salva Kiir to his ministers, dated 3 May 2012) leaves the state's judiciary in a considerable negligence. The state does not allocate enough governmental funds to establish a functioning judiciary that could effectively counteract the cycles of violence created by revenge killings.

In that context the existence of revenge killings and blood compensation in combination with an insufficiently working statutory judiciary has been creating room for a remarkable escalation of violence in South Sudan. It should be one of the state's crucial tasks to end the negligence of the judiciary in term of funds and capacity so that the respect for the rule of law and the administration of justice will be strengthened and the effects of customary blood compensation and customary revenge killings will cease to be a root of conflict.

Recommendations

The Council should ask the Government of South Sudan and all opposition forces to immediately comply with the Cessation of Hostilities Agreement and immediately end attacks on civilians.

The Council should ask the Government of South Sudan and all opposition forces to cease all violations of international human rights and humanitarian law. All forces should immediately cease unlawful killings, acts of sexual violence and any other attacks on civilians, looting and destruction of public and private property, and acts that obstruct humanitarian access.

The Council should call upon the Government of South Sudan and all opposition forces to immediately cease violence against humanitarian personnel, assets and other obstructions to humanitarian assistance.

The Council should call upon the United Nations Security Council to amend the mandate of the United Nations Mission to South Sudan (UNMISS), to concentrate on the protection of civilians, monitoring and reporting on human rights, and on the facilitation of humanitarian assistance.

The Council should urge the Intergovernmental Authority on Development (IGAD) to immediately deploy and strengthen its Monitoring and Verification Mechanism and monitor and report the parties' respect for the ceasefire and for their obligations to protect civilians and to comply with international human rights and humanitarian law.

The Council should ask the international community to provide the necessary funding for emergency and long-term food and nutrition assistance to prevent a humanitarian catastrophe.

The Council should ask the Government of South Sudan to initiate independent criminal investigations into allegations of crimes committed by all parties to the conflict.

The Council should underline that the rule of law is essential for security, economic growth and the provision of social services in South Sudan. The rule of law provides mechanisms for peaceful resolutions of conflicts.

Moreover, the Council should urge the international community to cooperate with the Government of South Sudan, so that capacities in the rule of law sector can be built, including the Judiciary, Ministry of Justice, police and corrections.

Finally, the Council should emphasize the importance of a harmonization of customary law with statutory law so that customary revenge killings and customary blood compensation cease to be means of conflict management in South Sudan.

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**Human Rights Council**
**Twenty-sixth session**
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Social Service Agency of the Protestant Church in Germany, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*1404296*

Please recycle

## Call on the Human Rights Council to establish an open ended working group for the development of a binding treaty in the area of business and human rights

As protestant development Agency cooperating with numerous partner organizations in the global south we see the urgent need for binding regulation in the area of business and human rights. We therefore welcome the initiative of a number of states presently urging for the development of binding standards on Business and Human Rights and call on the United Nations Human Rights Council to establish an open ended inter-governmental working group tasked with a drafting mandate.

Many of our partner organizations facing deregulated labour markets and disrespect of core labour standards by subsidiaries of transnational companies. Investments in extractive industries and large scale agriculture are driving small farming families off their land and polluting the environment. Loss of land, access to water and loss of biodiversity are in turn leading to increasing poverty and food insecurity. Partner organisations are also trying to address the negative impacts of privatisation of public goods and services. Communities standing up for their rights against national and transnational companies are facing severe criminalization. In many cases corporations are cooperating with state and private security forces to suppress community protests.

National governments and courts that hold primary responsibility for protecting human rights in their own countries often remain inactive. Inadequate legislation and poor governance are part of the problem, however many countries are dependent on deregulated markets attracting foreign investment. This structural unbalance is being consolidated by corporate lobby activities, bilateral investment treaties and investor- to -state dispute settlements. Based on these treaties companies are succeeding in preventing regulatory, social and rights based policies that could reduce the negative impacts of foreign investment.

This highlights a fundamental contradiction of economic globalization. On the one hand structural adjustment measures and trade and investment protection agreements have made it considerably easier for enterprises operating internationally to access markets and raw materials worldwide, and have granted them very extensive investor rights. On the other hand, internationally and in the home countries of transnational enterprises, no effective mechanisms have been created to prevent human rights abuses associated with the activities of those enterprises, and to hold guilty parties to account. These regulatory gaps are making an effective realisation of human rights very difficult.

The UN Guiding Principles on Business and Human Rights are a first step towards closing some of these gaps and clarifying state duties and corporate responsibilities. They have succeeded in helping corporations understand that they have a duty to respect human rights and what this entails. They have affirmed the state duty to protect people from human rights abuses through companies and have highlighted the importance of remedies.

However, when corporations violate human rights the Guiding Principles do not provide any means of holding these corporations accountable for their behaviour. The UN-Working Group on Business and Human rights has no means or mandate to address human rights violations. The few states that have developed national actions plans for implementation, have focused on weak self regulatory approaches, steps towards implementing the third pillar on access to justice for victims of corporate abuses are largely missing. As emphasized by the human rights council in resolution 17/4, the UN guiding principles must therefore be seen as the end of the beginning and as a common platform from which the UN can develop further long term measures. We believe that while continuing to implement the UN Guiding principles at national level, States should also cooperate in developing a binding international instrument to hold corporations accountable for Human Rights abuses.

A binding international instrument should

- build on standards developed by the Guiding principles
- require State Parties to monitor and regulate the operations of business enterprises under their jurisdiction, including when acting outside their national territory.
- require State Parties to establish legal liability for human rights abuses and access to an effective remedy for victims.
- include an international monitoring and accountability mechanism.

A parallel approach of implementing the UN Guiding Principles at the national level and developing binding international standards will increase the impact on the ground and contribute to a level playing field for business investments.

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**Human Rights Council**
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**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Europe-Third World Centre (CETIM), a non-governmental organization in general consultative status

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*1404497*

Please recycle

# Human Rights Violations and Access to Justice for the Victims of Chevron in Equador[1]

**History and Effects of the Activities of Chevron (formerly Texaco) in Ecuador**

On 5 February 1964, the military junta governing Ecuador granted a concession covering some one and a half million hectares of territory to Texaco Gulf in the Amazon region of Ecuador. Although the concession was later reduced, the area on which Texaco operated surpassed 400,000 hectares (in the provinces of Orellana and Sucumbios).[2]

Texaco carried out exploration and oil drilling in jungle regions inhabited by various Ecuadorean indigenous communities.[3]After the exploration phase, during which explosives were used and an incalculable number of boreholes were drilled into the earth's crust, Texaco drilled more than 350 wells. During the drilling of each of these wells, a huge quantity of toxic waste was produced, known as "drilling mud".[4]

Owing to its high toxicity, this waste had to be stocked in adequate containers and treated responsibly. Texaco, far from doing this, dug almost a thousand pits that were used as open air sewers, without any sort of protection to prevent leaks through the walls of the pits and the release of pollution. When these products were not dumped into the environment, they were simply burned intentionally by Texaco, with equally harmful consequences for the populations and the environment.

Then, during the operating of the wells, these same pits were used by Texaco to stock waste water and other dangerous residues, whereas steel cisterns would ordinarily have been required. The company thus realized considerable savings – to the detriment of both the environment and the local populations.

The irresponsibility of the company did not stop there. In spite of legal[5] and contractual[6] prohibitions, the content of these "pools" was simply dumped into the nearby rivers streams. Texaco had installed in each "pool" a rudimentary drainage system called a "goose neck" systematically used to drain the contents of the pits into the nearest streams. Although Texaco was well aware of the noxious effects of its activities[7] and had available technology that would have avoided – or at least considerably reduced – the damage done by dumping these toxic substances into the environment,[8] this technology was never used during its operations in Ecuador.[9]

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[1] This declaration has been drafted in collaboration with *Unión de Afectados por las Operaciones de la Petrolera Texaco (Chevron) en Ecuador* (UDAPT).

[2] In the concession contract and successive agreements modifying it, it was stipulated that Texaco would be entrusted with carrying out all technical planning and work in the field. This situation remained in effect for the duration of the concession, until June 1990, leaving Texaco the only and exclusive company operating in the entire concession area.

[3] At the time, the area was inhabited by the following nationalities: Secoya, Waorani, Shuar, Quichua, Cofán and Tetete.

[4] Drilling mud is a mixture of various chemical products used to lubricate the bit of the machines drilling the the boreholes and wells. This mixture contains several heavy metals and other toxic and carcinogenic products, such as chrome VI.

[5] For example, Article 12 of the health code, in effect since 1971, stipulates: "Nobody shall release into the air, the soil or the water solid, liquid or gaseous residues without having first treated them in order to render them unharmful to health." See also Article 22 of the law on water, in effect since 1972, which stipulates: "All contamination of water that affects human health or development of the flora and fauna is prohibited."

[6] In a contractual clause, it was required that the company operate "the concession by using adequate and efficient materiel".

[7] In 1962, T. Brink, an engineer working for Texaco, Inc., wrote an article about the risks of the waste water in a book entitled *Principles of the Oil and Gas Industry*, published by the American Petroleum Institute. In this book, the dangers of dumping waste water into water used for human consumption are discussed; in other words, exactly what Texaco did in Ecuador.

[8] Already in 1974, Texaco had filed for several patents for re-injection equipment which, if it had been used in Ecuador, would have avoided the dumping of 60 billion liters of waste water into the streams of the Ecuadorean Amazon region.

[9] The first re-injection equipment arrived in Ecuador at the beginning of 1998, well after Texaco had left the country. Before that, the system set up and used by Texaco dumped all waste water directly into the streams.

Whereas this region was previously characterized by its vast biodiversity and its abundant resources for the inhabitants, these resources have disappeared or are seriously harmed by the hydrocarbons because of the water and soil contamination, threatening the populations' right to food[10] and to health.[11]

Several peoples that had been living in the region since time immemorial have disappeared or been displaced. The Cofán population was reduced form 5,000 inhabitants to less than 800. They have been displaced from their lands, while the Tetete population was completely exterminated.

Laboratory analyses carried out by Chevron's experts in the region where the company operated show a high presence of total petroleum hydrocarbons (TPHs) in the ground, which indicates a generalized presence of hydrocarbons. They also show the presence of other carcinogenic elements such as benzine, toluene, polycyclic aromatic hydrocarbons (PAHs) and heavy metals and/or anti-corrosion agents, such as chrome IV and mercury.[12] It has been determined with certainty that the presence of these elements in the areas where Texaco operated is the result of the oil operations carried on by this company.

Regarding the contamination of the surface water, there is a confession by Texaco's legal counsel acknowledging in an open letter having dumped more than 60 million liters of waste water into the Amazon streams.[13] Underground water was also polluted, which is confirmed by smelling or tasting the water from wells (in so far as one dare). There is also a strong presence of TPHs and other elements such as chrome VI (characteristic of hydrocarbons) coming from leaks and infiltrations resulting from the lack of insulation of the waste pits in which Texaco dumped or buried the drilling mud and other toxic pollutants. All these poisons are today to be found in the environment, causing skin illnesses, vaginal and intestinal infections and other respiratory, reproductive and circulatory system problems as well as many types of cancer (throat, stomach, kidney, skin, brain), which have caused the death of many persons.[14]

Thus, in 26 years of oil drilling in the Amazon region of Ecuador, Texaco has polluted more than 450,000 hectares of one of the planet's richest biodiversity regions, destroying the living and subsistence of its inhabitants, causing the death of hundreds of persons and a brutal increase in the rate of cancer and other serious health problems. More than 60 billion liters of toxic waste water were dumped into the rivers and streams, 880 hydrocarbon waste pits were dug, and 6.65 billion cubic meters of natural gas were burned in the open air.

**Attempts at (and Obstacles to) Obtaining Justice against Chevron**

The litigation against Texaco was initially undertaken in New York, where, at the time, Texaco, Inc., had its world headquarters, on 3 November 1993, barely one year after Texaco had left the country. Nearly 30,000 Ecuadoreans, indigenous and *colonos*, directly or indirectly affected by the activities of Texaco on their lands, thus filed a legal suit in the United States. In 2002, after nine years of procedure, without having even considered the pollution, the United States courts finally accepted the argument put forward by Chevron (which had then merged with Texaco)[15] and

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[10] Chevron's activities had a horrible impact on the right to food and the way of life of the persons affected. Those who derived their food from what the jungle supplied, through gathering, hunting and fishing, were suddenly deprived of their source of food, the animals having fled or disappeared because of the noise and pollution.

[11] The human right to health can be affected by environmental damage. In this case, one can note an increase in the cases of cancers due exposure to petroleum and other polluting elements used to produce it. There are many studies that demonstrate a cause-effect relation between exposure to petroleum and an increase in the cases of cancer. They concur with the testimony of numerous persons who have recounted their sufferings and illnesses following exposure to such pollution.

[12] These are elements recognized as carcinogenic by various governmental and international health agencies, such as the United States Agency for Toxic Substances and Disease Registry (ATSDR), the World Health Organization's International Agency for Research on Cancer etc. These elements are the same as those used in the drilling mud mixtures.

[13] Open letter from Dr Rodrigo Pérez Pallares, Texaco Petroleum Company legal counsel, to the director of the magazine *Vistazo*, 5 March 2007, republished in the *El Comercio* newspaper 16 March 2007, first section, page 7.

[14] The health effects on the inhabitants of the Amazonian forest exposed to hydrocarbon pollution has been documented in the YanaCuri Report, which compared the health of populations living near wells and production installations with the health of persons who were not exposed to the same conditions. In the same way, the study "Cancer in the Amazon Region of Ecuador" also presents a comparison between exposed and non-exposed populations. These studies demonstrate much higher rates of cancer than in other regions of Ecuador where there were no hydrocarbon operations.

[15] In 1999 was launched the merging process between Chevron Corporation and Texaco INC. On the 9 of October 2001, the merger between the two TNCs was completed. From that time the new corporation took the name of

decided not to hear the case of the Ecuadorean inhabitants under *forum non convinens*, arguing that Ecuador was the more appropriate place for the case to be heard.[16]
Pursuing their quest for justice, and in keeping with the decision of the United States court, the populations affected by Chevron's operations filed a complaint in Ecuador on 7 May 2003.[17]

However, in spite of the ruling of the United States court, Chevron contested the jurisdiction of the Ecuadorean judges over the case, arguing that Chevron had never operated in Ecuador and that Chevron was not the company that had succeeded Texaco because there had never been a merger.

During the first years of the trial in Ecuador, the plaintiffs were persecuted by the Ecuadorean armed forces, which were in fact in the pay of Chevron as security services.[18] This "access" by Chevron to the military also made possible the falsification of reports from the intelligence services and the suspension of arrest warrants.

Chevron also drafted a plan to assure that the experts find only clean samplings.[19] An "independent" company was also set up by Chevron to analyze samplings and to project an image of impartiality.[20]

On 14 February 2011, the Court of Sucumbíos finally handed down its ruling and ordered Chevron to pay nearly US$ 9 billion in compensation to finance the clean-up of the contaminated ground and water, a health program to aid the cancer victims and a program to restore the lost fauna and flora as well as the lost agricultural land. Chevron was also ordered to pay punitive damages, given the magnitude of the damage caused and the bad faith demonstrated by its lawyers throughout the trial.

This judgment was confirmed on appeal on 3 January 2012, and it was then subjected to an examination by the National Court of Ecuador, the country's highest judicial instance. On 12 November 2013, this court confirmed the ruling. It also confirmed all the rulings of the lower courts regarding environmental damage and let stand the order for punitive damages.[21]

Thus, after 20 years of complex legal proceedings, the plaintiffs succeeded in surmounting the many obstacles and winning their case in court, but they have not yet managed to obtain compensation for the harm caused.

In spite of its defeat in courts that it chose itself, Chevron still refuses to acknowledge the ruling against it. And Chevron is using its substantial financial resources not to fulfill its obligation of compensation for the harm done but to

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Chevron-Texaco Corporation; but then in 2005, "Texaco" was eliminated from the name and only Chevron Corporation remained.

[16] The United States judges "guaranteed" the plaintiffs the right to a trial by imposing on Chevron the obligation to accept Ecuadorean justice and to abide by whatever adverse ruling might be handed down. To free itself of the United States jurisdiction, Chevron had even agreed and committed itself to accepting the ruling in Ecuador, but the victims soon realized that this constituted no guarantee.

[17] The complaint stipulated that Chevron had caused damage to the environment by using obsolete and polluting technology and practices, in violation of Ecuadorean law, which specifically required the operator to avoid the damage to the ecosystem and to use "modern and efficient technology".

[18] The contracts are not available to the public, but it is well known that the president of the Republic of Ecuador, Rafael Correa, has denounced the consequences of one contract signed some ten years ago by an army-owned company to provide security and intelligence services of the transnational oil company Chevron. See www.andes.info.ec/es/actualidad/presidente-correa-denuncia-contrato-empresa-militar-ecuatoriana-brinda-servicios

[19] These documents were not available to the victims during the trial against Chevron. They were obtained by the Republic of Ecuador through discovery. They are now available at http://www.iguanamixer.com/2014/05/chevrons-expert-inspection/

[20] But, as even these results demonstrated the presence of pollution, Chevron arranged for its experts to compare them with limits 100 times higher than those accepted in the United States in order to reach the conclusion that there were no health risks. The Ecuadorean judges rejected these "conclusions" and ordered an independent evaluation of the samplings.

[21] Ruling handed down by the National Court of Justice 13 November 2013, case 174-2012.

finance an international campaign of defamation attacks against the plaintiffs, their lawyers and any other persons working to support their cause.[22]

Chevron has also hired and paid US$ 15 million to a company called Kroll to conduct surveillance of the activities of the supporters and sympathizers of the victims.[23] And Chevron has paid more than US$ 300,000 to an Ecuadorean judge disbarred for corruption[24] in exchange for his testimony to convict the plaintiffs in the United States.[25] Thus, the sames United States courts that declared that they had no jurisdiction in the complaint filed by the Ecuadorean victims of Chevron are now prosecuting those victims as if they were criminals trying to extort money from an innocent company.

To that, one must add the attempts to buy previous Ecuadorean governments and the major political and media campaign launched against the government of President Correa, by means of arbitration complaints[26] and an international campaign[27] as well as attempts to discredit the Ecuadorean judicial system. The victims are thus faced with a giant ready and able to deploy all the means at its disposal, a giant that, after having poisoned the lands of the Amazon region of Ecuador, seeks to subject and humiliate the victims that dare file a complaint.

On their side, the victims, traveling the long legal road that Chevron forces them to take, have undertaken legal action to obtain the implementation of the ruling in various countries. They must face innumerable difficulties, starting with lawyers' fees, the problem of jurisdiction deriving from acknowledgment of the ruling form a foreign court and even political pressure.[28]

After 21 years of litigation, the impunity continues for Chevron, and the victims of its activities in Ecuador are still waiting for justice and compensation.

**The Necessity of a Binding International Instrument**

The Chevron case is emblematic in many ways and shows, in particular, the destructive effects for the environment and the local populations of natural resource extraction activities carried out by transnational corporations (TNCs) without any control or oversight, and the tortuous road that the victims must travel to obtain justice and compensation. The victims must face extremely powerful actors, with powerful influence networks and almost unlimited means, and they cannot always count on the cooperation of the governments of the countries within which the TNCs have their

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[22] The plaintiffs' lawyers are faced with law suits for extortion in the United States and for fraud in Argentina, criminal indictments in Colombia and campaigns in the media. The purpose of these attacks is to deprive the victims of their right to defense. Further, Chevron has systematically attacked all sources of income of the victims to deprive them of every possibility of continuing the fight.

[23] Testimony given under oath, 10 June 2013, by Daniel Karson, representing Kroll, Inc., in the context of the Chevron Corp. case against Steven Donzinger et al., 1:11-cv-00691-LAK-JCF.

[24] Testimony given under oath, 17 November 2012, before a notary public in Chicago, Illinois, United States of America, by Alberto Guerra Bastidas, former Ecuadorean judge relieved of his functions because of corruption.

[25] The suit against the victims continues under the *Racketeer Influenced and Corrupt Organization Act*. In March 2014, the New York judge Lewis Kaplan ruled in favor Chevron and forbid the Ecuadorean victims of Chevron to serve their sentences in the United States. For a brief description of Chevron's bad faith during the trial, see document N° 1850, pp. 11-20 of the RICO case. See also: http://www.earthrights.org/es/blog/una-verdad-innecesaria-reflexiones-sobre-lo-que-nunca-se-conto-en-el-caso-rico

[26] Chevron filed a complaint against the Ecuadorean government with an arbitration tribunal, arguing that the case against it for environmental damage by Ecuadorean citizens constituted a violation of the bilateral investment treaty between Ecuador and the United States. Although the Amazon region plaintiffs did not participate in this arbitration (they were neither informed nor heard during every phase of the case), the tribunal twice ordered Ecuador to take all measures necessary for the execution of the ruling against Chevron.

[27] Chevron spent millions of dollars in a lobbying campaign to discredit the image of Ecuador, its civil servants and its courts, to have its trade agreements rescinded and to obtain international sanctions, in order to put pressure on the Ecuadorean government to force it to suspend the court case brought by its citizens.

[28] In Argentina in particular, it has become clear that the conditions that Chevron imposed for investing in *Vaca Muerta* have triggered a change in the position of the executive branch in favor of unfreezing Chevron's assets in the country. Thus, the Supreme Court of Argentina followed the requests of the state's attorney and decided that Chevron-Argentine did not have to assume the obligations of its mother company Chevron Corp., for it had not been subject to legal action in Ecuador. This set a disastrous precedent for any complaint case against corporations that hide their assets behind a system of subsidiaries, for, according to the Court's ruling, it would be necessary to file complaints against all the subsidiaries to target the assets of the mother company. It goes without saying that this would be impossible.

headquarters, governments which very often favor TNC economic interests rather than the rights of victims outside the country.

The current economic system accords many rights and protections to TNCs without their being held responsible for their actions and for the human rights violations committed. An international system that recognizes the rights but not the obligations of the most powerful economic actors can hardly be called stable and balanced. It is clearly biased in favor of the TNCs and leaves the victims of their activities without any avenue of redress. It is high time to establish a balance within this system.

The adoption of binding norms at the international level is necessary to complete and support the efforts at the national level and to guarantee a real control over the activities of TNCs and their impacts on human rights, as well as access to justice for the victims of their activities. These norms should, in particular, include responsibility throughout the entire supply chain, from the top corporation on down to the smallest supplier and sub-contractor. They should guarantee access to justice for victims of their activities abroad in the country where the TNCs have their headquarters. Finally, they should reinforce international judicial cooperation in order to facilitate the implementation of court rulings concerning human rights violations committed by TNCs.

In view of what has just been stated, the Europe – Third World Center (CETIM) is calling upon the Human Rights Council to set up an intergovernmental working group with a mandate to draft binding norms for TNCs.

It is also calling upon all governments, and in particular the government of the United States of America, to facilitate access to justice for the victims of Chevron's activities in Ecuador and to cooperate fully so that the ruling by the Ecuadorean court will be executed.

United Nations A/HRC/260/NGO/75

General Assembly

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**Human Rights Council**
**Twenty-sixth session**
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Joint written statement* submitted by the International Catholic Child Bureau, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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# Impact of Domestic Violence on Children and Child Abuse and Neglect in Ukraine

## 1. Domestic Violence[1] and Impact on Women and Children

### 1.1. Persistent Domestic Violence and Consequences

1. Despite a quite comprehensive national legislation[2], during the last decade, UN experts, monitoring mechanisms and treaty bodies, including the Committee on the Rights of the Child, expressed concerns over the domestic violence situation in Ukraine. Hence, the Special Rapporteur on the sale of children, child prostitution and child pornography in October 2006[3], the CEDAW in January 2010[4], the CRC in January 2011[5], the Universal Periodic Mechanism in May 2008[6] and October 2012[7], and the Human Rights Committee in July 2013[8], consistently underlined the magnitude and the consequences of domestic violence on the rights of women and children despite the domestic legislation and steps undertaken by the Ukrainian authorities. Challenges reclined on different aspects, including the indifference vis-à-vis

[1] Domestic violence, i.e. any deliberate physical, psychological, or economic actions (use of physical violence without causing physical pain and bodily injuries, threats, insulting or stalking, deprivation of housing, food, clothes, other property or money to which victim has right given to him by law, etc.) which could or have resulted in damage to physical or mental health of victim, as well as breach of restraining order by person whom this order concerns and failure to attend correctional program by person who committed domestic violence. Regardless the fact that different forms of violence are widely spread in all settings in Ukraine, domestic violence is considered to be the most acute and urgent problem. More than 100'000 cases of domestic violence are registered in Ukraine annually, as reported by the Ministry of Social Policy of Ukraine. In 2012, 110'200 cases of domestic violence have been reported (In 2010: 110'272 cases of domestic violence, including 96,152 reported by women, and 8,683 reported by men; 2011: 126'514 cases of domestic violence, including 113'872 reported by women, and 11'861 reported by men). It is known that about 1'000 women die annually *(http://tyzhden.ua/News/24395)* and 30 per cent of all murders are committed on the ground of domestic background. Despite the fact that any form of violence against children is prohibited by Ukrainian law, around 45 per cent of children interviewed by *Women's consortium of Ukraine* have stated that they face domestic violence *(Annual report of the Parliamentary Commissioner for human rights in Ukraine, 2013/ http://ombudsman.gov.ua/index.php?option=com_content&view=article&id=2729:2013-06-04-14-07 13&catid=232:2013&Itemid=233).* At the same time the level of official reports of such cases remains low. Out of 110'200 cases reported in 2012 to the Ministry of Social Policies of Ukraine, only 708 were communicated by children, while the total estimation of children on the record as victims of child abuse and violence was 1'741 *(Annual report of the Parliamentary Commissioner for Human Rights in Ukraine, 2013).*

[2] The 1996 Constitution of Ukraine (e.g. Art. 52), the Family Code (e.g. Art. 150 (§6, 7), the Law on Child Protection (e.g. Art. 10), and the Law on Education (e.g. Art. 51 §16, and 56) provide for the protection of children against violence. In addition, Ukraine was the first country out of the post-Soviet States to approve a Law on prevention of domestic violence in 2001, amended in 2008. Sanctions against domestic violence perpetrators may include formal warning about impermissibility of committing domestic violence, official registration as a perpetrator of domestic violence, referral to correction programme, etc. The 2001 Law identifies legal and organizational background for prevention of domestic violence as well as responsible agencies. In 2008, the Law was amended with a wider interpretation of the notion of "family member". It also introduced the correction programs for the offenders. The notion of "victim behavior" was withdrawn. In addition, the Ukrainian Domestic Violence (Prevention) Act provided for the protection of the dignity and the rights of children who have parents and live in families and of orphans without parental care and raised in the families of tutors and guardians, or in adoptive families or family-type children's homes, in all cases where violence is enacted against them or where there is a real threat of such violence.

[3] UN Doc. A/HRC/4/31/Add.2.

[4] UN Doc. CEDAW/C/UKR/CO/7, § 26.

[5] UN Doc. CRC/C/UKR/CO/3-4.

[6] UN Doc. A/HRC/8/45.

[7] UN Doc. A/HRC/22/7.

[8] UN Doc. CCPR/C/UKR/CO/7(2013).

the formal warning about impermissibility of committing domestic violence[9], and the imperfect formulation of procedures of enforcing measures against perpetrators[10].

**1.2. Prosecution of Persons Guilty of Offence**

2. Domestic violence act in Ukraine entails administrative punishment according to Article 173-2 of the Code of Ukraine on Administrative Offences (December 07, 1984). Notwithstanding, in the enforcement process, courts generally tend to impose fines as a punishment whilst such punishment is quite ineffective, especially in situations of low-income families – financial penalty hurts all family members. Vice versa, if a perpetrator is a well-to-do person, he or she would not be much affected by the size of imposed fine. Courts are quite reluctant in using such effective and generally useful type of punishment as public work.

**1.3. Regimes and Specifics of Court Functioning**

3. It may take a very long time between the offence and actual punishment of a perpetrator. For example, detention of a domestic troublemaker for several days (administrative arrest as established by the law) requires a relevant court decision. Police may hold such perpetrator for only three hours after committing offence; then he returns home and continues threatening his family. Until the court finally decides to detain such person for a longer period of time, he may torment his victims for several more days.

4. Corruption in law enforcement agencies and in the court system is another significant concern. Sometimes, a woman finds it extremely difficult to defend herself in the court or to obtain adequate results of pre-trial investigation, especially if her offender is a rich or important person. In the meantime, if she has children, they continue to suffer consequences of violence occurred[11].

**1.4. The System of Responsible Bodies**

5. The Ministry of Social Policy is responsible for ensuring assistance, care and protection to female victims of violence. It is provided by the State centres for social and psychological assistance in the majority of oblast centres of Ukraine. As per the end of 2013, 22 of such centres existed in Ukraine. The main goal of such centres is to improve the quality of life and to encourage active life positions of individuals in difficult life circumstances who cannot cope with them independently. This goal is achieved through provision of temporary living quarters and a set of social services[12].

6. The services are also provided by the network of centres of social services for family, children and youth (CSSFCY) – specialized facilities that carry out social work with families, children and youth in difficult life circumstances that require external assistance. However, in 2013 only 8'573 families were provided with assistance as households with the problem of domestic violence.

7. In May 2012, to increase access for families in crisis, the government introduced a position of social work specialists in all CSSFCY, and hired 12'000 specialists. These professionals offered practical assistance to families in crisis, including women and girls – victims of violence. Unfortunately, the Ministry of Finance of Ukraine suggested eliminating this position and submitted relevant draft resolution to the Cabinet of Ministers of Ukraine No.31-07340-

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[9] As for the protective order, no perpetrator would ever be stopped by a piece of paper that says what he (or she) is prohibited to do. Correction programmes are also ineffective due to the lack of specialists and weak mechanisms for involving perpetrators of violence in such programmes. In addition, the law is quite limited in terms of persons who come within the purview of the law, and it does not answer the question whether this list should be expanded (former spouses, former sexual partners, intimate partners and the like).

[10] In fact, the law contains a number of legal collisions (e.g. discrepancies in terminologies of the Law on Domestic Violence and Family Code in identifying "domestic violence"; no means to prosecute cases against former partner etc.) that further contribute to its inefficiency in terms of protecting victims.

[11] Very serious situations may happen when perpetrators of domestic violence are people with obvious signs of mental disorder or disease,

while law enforcement officers are reluctant to apply measures of compulsory examination and treatment of such persons.

[12] Social services include domestic, information, psychological, social and pedagogical, social and medical, legal and social and economic

services).

14-5/4958 "On Amending the Resolution of the Cabinet of Ministers of Ukraine No.1149 as of December 8, 2010". All specialists are expected to lose their jobs by June 2014. *Women's Consortium of Ukraine* received numerous complaints about heads of some CSSFCY who were pressuring these specialists to resign earlier (upon consent of both parties), which would mean "release" of social benefits guaranteed by labour laws.

8. Other facilities include mother and child centres, rehabilitation centres and shelters for children. However, specialists identify a number of challenges that prevent women from getting services meeting international and European standards of quality from such institutions[13]: limited number of such facilities compared to the existing population and needs[14]; access to facilities based on the certificate of registration of residence[15]; limited age of enrolment to the facility[16]; limited time-frames of accommodation in the facilities[17]; numerous paper-loads for the enrolment[18]; lack of information about such service facilities[19]; and lack of specification[20].

9. **Recommendations:**

- **9.1. Facilitate complaints from victims and ensure that these complaints are thoroughly investigated and prosecuted;**
- **9.2. Allocate adequate funding for the implementation of the Domestic Violence Prevention Act and provide victims with access to effective remedies, psychosocial and legal assistance as well as other relevant services, including sufficient shelters in all parts of the country as needed for victims' counselling and recovery;**
- **9.3. Prosecute and punish perpetrators with dissuasive sanctions;**
- **9.4. Ensure capacity building for law enforcement authorities and medical and social workers to adequately deal with cases of domestic violence, and raise awareness throughout the country on the issue;**
- **9.5. Refrain from eliminating the position of the 12'000 specialists offering practical assistance to families that face domestic violence in centres of social services for family, children and youth (CSSFCY);**
- **9.6. Facilitate effective access to mother and family centres and shelters, remove all barriers, including age limit, limited duration of stay, lack of information, lack of specification and the certificate of registration residence.**

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[13] Materials of the monitoring of shelters for people survived domestic violence and trafficking in humans, 2012-2013, by La Strada Ukraine: http://la-strada.org.ua/ucp_mod_library_view_292.html

[14] For example, in 3 mln capital city Kyiv the number of such institutions are 3 with a total capacity of 53 beds, whilst in 1 mln 300 thousands city of Cherkassy, there is no facilities at all.

[15] The problem of access to such services for people without registration of residence in the region of location of the facility remains a critical issue and leads to the ad-hoc and more complicated arrangement of such cases.

[16] For example, the typical provision of the state centres for social and psychological assistance provides that their services target young people of 18 through 35, while mother and child centers allow the accommodation for women of the child under 1,5 years of age. Such limitations may cause problems to access to services women of other age groups, especially elderly women.

[17] The maximum duration of stay in the facility is set at 3 months, which may be not enough for solving the problem of violence and its sequelae.

[18] In order to have access to a facility, victim survivor has to collect a number of documents that may vary from region to region. The procedure of getting such documents, especially medical, may take time and require for financial resources which survivor do not have.

[19] People are not aware about such facilities and their services and may sometime learn about them only from NGO, National Hotline, or other social partners.

[20] The majority of the facilities is oriented at a broad target population and is not necessarily targeting victims of domestic or other types of violence. In 2008-2010, the correction programs for the offenders were developed and launched. Nevertheless, the level of people involved into this correction work remains low. For instance, in 2013 the number of people registered for committing domestic violence by the police was estimated at 95'204, while only 5'591 of them (5,8%) were referred to correction services.

**2. Child Abuse and Neglect**

10. According to the analyses by the *Women's Consortium of Ukraine*, 60 per cent of children interviewed consider that the school is the place where they more often face different forms of violence.[21] Children are not always willing to report violence committed by their class-mates, other students in the school or teachers, while investigations of such cases are not effective. Schools do hide such cases for their reputation sake. The level of officially registered crimes committed against children on sexual grounds is also very low[22].

11. However, effectiveness of the response and investigation of sexual as well as other forms of violence against children is very low, while courts do not maintain separate statistics for crimes under Article 153 (Violent unnatural gratification of sexual desire), and Article 154 (Compulsion to sexual intercourse), and in case of perpetration of several crimes the courts register the one that envisages more strict penalties. As a result, many crimes go "unnoticed" in the official court reporting[23]. The situation is further aggravated by concealment of facts by law enforcement agencies that try to reclassify such cases to other misdemeanours, like disorderly conduct or hooliganism. Breaching the law, children could be interrogated without a legal representative. In other cases, kids could pass numerous interrogations by the investigator.

12. The gravest situation is how authorities deal with victims of abuse and neglect. Not only victims have no access to effective remedies but are also stigmatised, marginalised, criminalised, penalised and sometimes held responsible whilst perpetrators enjoy impunity. Furthermore, treated as offenders, they encounter trial even pre-trial detention[24]. As a result, all these cases will continue to be concealed and unsolved, because victims are afraid of repeated violence and humiliation during investigation, while their personal information will be exposed[25].

**13. Recommendations:**

- **13.1. Ratify the Third Optional Protocol to the Convention on the Rights of the Child and conduct awareness-raising campaign on Article 18 of the Family Code that allows children from 14 years old to seek directly protection from courts;**
- **13.2. Undertake appropriate measures to ensure the incorporation of the Lanzarote Convention in domestic legislation and train law enforcement officers, including on how children victim of abuse and neglect are heard;**
- **13.3. Abstain from criminalising, detaining and socially marginalising children victim of abuse and neglect, and provide them and their family with adequate psychosocial and health services, care, support, and counselling as well as legal assistance and recovery measures;**

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[21] http://wcu-network.org.ua/public/upload/files/schulNAS111.pdf. Furthermore, in 2006, the UN Special Rapporteur on the sale of children, child prostitution and child pornography declared that children from dysfunctional and poor families with a low level of education, street children, victims of sexual abuse and domestic violence, children in institutions or who recently left institutions are exposed to higher risks (See footnote n°3 above). The concern has been echoed five years later by the CRC which was "alarmed at the extent of, and increase in, abuse and neglect of children in all settings (CRC/C/UKR/CO/3-4 (2011), § 50).

[22] For example, in 2012, 90 rapes of children (Article 152 of the Criminal Code of Ukraine) and 487 other types of sexual violence (violent unnatural gratification of sexual desire and compulsion to sexual intercourse) have been reported.

[23] According to the data of human rights NGO "La Strada", only 30% of reports about the fact of rape filed to the police eventually reach courts. Whilst during 2009-2011, law enforcement agencies received more than 7,000 reports and complaints about rape, yet, only 2,071 criminal cases were opened. Even fewer cases actually reached the courtroom. Law enforcement agencies provide no data for 2013. The majority of victims of violence would rather avoid the police, being afraid of retribution from their offenders, biased attitudes and degrading police treatment – as a result, they are deprived of any assistance (http://la-strada.org.ua/ucp_mod_news_list_show_453.html).

[24] UN Doc. CRC/C/OPSC/UKR/CO/1 (2007), §§ 23 & 24.

[25] In addition, child abuse and neglect cases are barely reported and investigated, mostly if they occurred in circles of trust, including families, schools, training centres, paediatric hospitals and rehabilitation institutions. As a result, only very few cases are prosecuted, which ensures impunity for perpetrators. Unfortunately, neither child abuse and neglect systematic desegregated data in circles of trust as well as in specialised educational and rehabilitation centres nor preventive measures to sensitise and support families, are available in Ukraine.

- **13.4. Establish in child special educational and social rehabilitation centres and other circles of trust, a *child protection policy* strictly applicable to all professionals directly or indirectly in contact with children and train them on relevant domestic legislation protecting children against abuse and neglect and sanctions they may face when law provisions and regulations are breached;**
- **13.5. Adopt feasible and measurable preventive measures, including parental and professional enhancing skills for early child abuse and neglect detecting and reporting cases to relevant institutions for investigation and prosecution.**

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* Women's Consortium of Ukraine (WCU) NGO(s) without consultative status, also share the views expressed in this statement.

United Nations A/HRC/26/NGO/76

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**Human Rights Council**
**Twenty-sixth session**
Agenda item 4
**Human rights situations that require the Council's attention**

# Written statement* submitted by Reporters Sans Frontiers International - Reporters Without Borders International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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# PERSECUTIONS IN BAHRAIN MUST STOP*

In the three years since the start of a popular uprising, the kingdom's authorities have crushed demonstrations calling for political reforms and have targeted journalists and other newsproviders covering the movement and the methods used by the security forces to suppress it.

The Bahraini authorities continue to obstruct the work of journalists and to threaten, harass, arrest, prosecute and abuse news providers in violation of their international commitments to the UN Human Rights Council in 2012.

Many Bahraini newsproviders receive long prison sentences, far from the international community's cameras and attention, while the authorities continue to crack down on freedom of information and its actors. It is time for the persecution and sham trials end.

Eight individual news providers currently detained

- Arrested in 2011, Hassan Ma'atooq received a three-year jail sentence from a national security court for posting photos of people who were injured during major protests in February 2011.

- The blogger and head of the human rights bureau of the Al-Haq Movement for Civil Liberties and Democracy, Abduljalil Al-Singace has been held since March 2011 and is now serving a sentence of life imprisonment that a high court of appeal upheld on September 4, 2012. He is one of 13 opposition leaders and activists convicted of *"creating and running a terrorist group aimed at changing the constitution and system of monarchy (...) by force," "being in contact with a foreign terrorist group that acts in the interests of a foreign country and carries out hostile actions against Bahrain,"* and *"raising funds for this group."*

- The well-known photographer Ahmed Humaidan was arrested on December 29, 2012 on a charge of attacking a police station in Sitra on April 8, 2012, although he was not there that day. His trial began on February 12, 2013 but the prosecution continued to postpone his hearings due to difficulties in producing witnesses. His lawyer's repeated requests for an independent investigation into allegations of torture were unsuccessful. His requests to prison authorities to allow Humaidan to be examined by a doctor likewise failed. Humaidan was sentenced to 10 years in prison on March 26, 2014.

- Arrested in July 2013, the photographer Hussain Hubail was charged on August 21 with *"managing (electronic) accounts calling for the government's overthrow," "promoting and inciting hatred against the government," "inciting others to disobey the law,"* and calling for illegal demonstrations. He was also accused of *"contributing to the Twitter account of the February 14 media network."* According to witness accounts, he has been mistreated and even tortured. He was given a five-year jail sentence on April 28, 2014. He filed an appeal, on which a court is due to issue a ruling on June 22.

- Arrested at his home by masked plainclothesmen on July 31, 2013, the blogger Jassim Al-Nuaimi was accused of using social media to incite anti-government hatred and to call for illegal demonstrations. After being held for several days at the General Directorate of the Criminal Investigation Department (CID), he was transferred to Dry Dock prison on August 3, only to be transferred back to the CID and then forced to sign a confession before a prosecutor. Witnesses said he had been tortured or mistreated. A hearing scheduled for February 16 was postponed until March 16. Like Hubail, he was given a five-year jail sentence on April 28, 2014 and, like Hubail, he filed an appeal, on which a court is due to issue a ruling on June 22.

- The freelance cameraman Qassim Zain Al-Deen, who was arrested at his home on August 2, 2013 in the run-up to the "Tamarod" demonstrations in mid-August, was sentenced in December to three months in prison on a charge of participating in an illegal demonstration. He was sentenced to an additional six months in prison on January 15, 2014 on another charge of participating in an illegal demonstration and a charge of "vandalism." He is also being tried for "vandalism" inside the prison where he is being held but the judgment of the court

has been repeatedly postponed.

- The photographer Sayed Ahmed Al-Mousawi was arrested on February 10, 2014. According to the information obtained by RWB, he was mistreated while held by the CID. He is now in Dry Dock prison. He was charged with providing telephone SIM cards to alleged "terrorists" and with taking pictures of demonstrations.

- Arrested on at his home January 7, 2014, the blogger Ali Maaraj was sentenced to 30 months in prison on April 8 on charges of "*insulting the king*" and "*improper handling of information technology*." Maaraj posted articles critical of Bahrain's monarchy on the *Luluwa Awel* blog. He also posted reports and other information about Bahrain's anti-government demonstrations. The prosecutor said "*he intentionally caused trouble to other people as a result of improper handling of information technology*." For these charges he was given six months in prison and two additional years for "*insulting the king*." No defense witnesses were allowed to testify at the trial, which lasted for only three hearings, despite the severity of the sentence.

Some newsproviders have continued to be the target of prosecution after their release. The blogger Mohamed Hassan was released a few weeks after being arrested but continues to face charges of "*managing (electronic) accounts calling for the government's overthrow,*" promoting and inciting hatred against the government, inciting others to disobey the law, and calling for illegal demonstrations.

More recently, the well-known photojournalist Ahmed Al-Fardan was held in arbitrary detention from December 26 to January 9, 2014. Although he has since been released, he is still charged with "*trying to participate in an illegal gathering*." He was summoned to appear before a judge on May 12 and has received another summons for May 26.

Newsproviders killed, tortured and mistreated with impunity

Many newsproviders have reported being mistreated during detention. These claims should be investigated by independent actors. Investigations to this point have failed to demonstrate any impartiality and have resulted in the withdrawal of all charges, acquittals or derisory prison sentences. The journalists who have been victims of such denial of justice include Nazeeha Saeed, a reporter for *France 24* and *Monte-Carlo Doualiya*. Although Nazeeha presented overwhelming evidence demonstrating the defendant's guilt, the policewoman accused of torturing Nazeeha during her detention in 2011 was acquitted on appeal on June 23, 2013.

Impunity reigns. No independent investigation has been conducted into the death of 22-year-old cameraman Ahmed Ismail Hussain on March 31, 2012. Hussain was fatally shot while covering a peaceful demonstration in Salmabad. After Karim Fakhrawi, co-founder of the only opposition newspaper, *Al-Wasat*, died in detention in April 2011, two policemen were initially sentenced to seven years in prison for torturing him to death, but their jail terms were reduced to three years on appeal on October 27, 2013.

The netizen Zakariya Rashid Hassan, administrator of a now-closed online forum that provided information about his home village of Al-Dair, died in detention on April 9, 2011. His death came seven days after his arrest on charges of inciting hatred, disseminating false news, promoting sectarianism and calling for the Government's overthrow in online forums. Although his family rejected the official explanation, the Interior Ministry claimed that his death was a result of sickle cell anemia complications.

Information control

Bahraini authorities intend to control the media. Six of the seven daily newspapers are controlled by associates of the royal family or government hence compromising their independence and impartiality and leading to a wide-spread practice of self censorship by independent newspapers.

The Information Affairs Agency, created in 2002, was used to restrict media freedom during the 2011 unrest. It was responsible for *Al-Wasat* newspaper's closure for several months and the prosecution of its editor, Mansoor Al-Jamri. It is empowered to censor or prevent the distribution of Bahraini publications, to close newspapers by means of judicial

proceedings, and to block websites. Such expansive power over the various media outlets by a government agency is a serious threat to freedom of information.

The government has been promising a new media law since 2012 that would ostensibly be more progressive. Its architect is the current Information Minister. However, this new law has yet to be adopted by the parliament and its contents have not been made public.

The Bahraini authorities must:

- Release all newsproviders who are currently detained due to their journalistic activities or on spurious grounds;
- Systematically conduct independent investigations into all allegations of torture or mistreatment in detention;
- Investigate all deaths of newsproviders while in detention or while carrying out journalistic activities;
- Guarantee effective independence of state and privately-owned media; and,
- Guarantee foreign journalists unfettered access to the Kingdom of Bahrain.

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* Americans for Democracy and Human Rights in Bahrain,The Bahrain Center for Human Rights, The Bahrain Institute for Rights and Democracy, The Bahrain Youth Society for Human Rights, PEN International without consultative status, also share the views expressed in this statement (to condemn the decline of freedom of information in the Kingdom of Bahrain).

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**Human Rights Council**
**Twenty-sixth session**
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Lawyers' Rights Watch Canada, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04295

*1404295*

Please recycle

# The Shrinking Space for Dissent in Canada

## I. Recommendations

Lawyers Rights Watch Canada calls on the Human Rights Council to promote and protect the rule of law and fundamental rights and freedoms in Canada by monitoring and recommending:

1. An immediate cessation of the surveillance of human rights defenders, Indigenous groups, and environmental organizations in Canada.
2. An immediate end to discriminatory inquiries and audits by the Canada Revenue Agency of Canadian charitable organizations.
3. The creation of an enabling environment for civil society organizations (CSOs) and human rights defenders, including:
    a. An immediate cessation of public rhetoric by the Government of Canada calling environmental protection and other groups "radicalized" and suggesting that their receipt of international funding makes them foreign agents working against Canadian interests.
    b. Amendments to the *Income Tax Act*[1] and/or the regulatory and policy framework, which unduly limit charitable activities by restricting policy and advocacy work.

## II. Background

The capacity of CSOs to engage in advocacy and dissent depends on a complex interplay between regulatory, political and social factors. The concept of an "enabling environment" has emerged to define the scope of these factors and goes beyond identifying the restrictions that prevent groups from existing, functioning and growing and extends to include conditions that actively help civil society to function and thrive. Not only has the present federal government not created an enabling environment, but its policies and practices have created a harsh and punitive environment for dissent and dissenters.

LRWC notes with growing concern the constricting space for dissent in Canada for CSOs and human rights defenders. Several sources have undertaken research and documentation of this trend, including Amnesty International, the British Columbia Civil Liberties Association (BCCLA), CIVICUS, Human Rights Watch and Voices-Voix, a Canadian coalition of more than 200 CSOs.[2]

In October 2013, Mr. Maina Kiai, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, expressed concern about reports from CSOs in Canada regarding increasing legal, political, economic and regulatory restrictions.[3] Particularly since 2010, Canada has deployed an unprecedented range of restrictive measures to reduce the legal, financial and political space available to CSOs and human rights defenders.[4] Areas targeted and social programs dismantled include international development, women's equality, and immigrant and refugee support

[1] RSC, 1985, c. 1 (5th Supp.).

[2] *Time for Consistent Action - Amnesty International's Human Rights Agenda for Canada* (December 2013). Online Amnesty: < http://www.amnesty.ca/news/news-releases/time-for-consistent-action-amnesty-international%E2%80%99s-human-rights-agenda-for-canada> at 11-12; CIVICUS. *State of Civil Society 2013: Creating an Enabling Environment*. Online CIVICUS: < http://socs.civicus.org/> at 127 ff; Human Rights Watch, *World Report 2014* Canada. Online HRW: < http://www.hrw.org/world-report/2014/country-chapters/canada?page=1>; Voices-Voix Documentation Project, online: <http://www.voices-voix.ca>. See also Pearl Eliadis, *Speaking Out on Human Rights: Debating Canada's Human Rights System* (McGill-Queen's University Press, 2014) at 8, 196. For an overview of attacks on labour rights and unions in Canada, see Matthew Behrens and The Canadian Foundation for Labour Rights (eds) *Unions Matter: Advancing Democracy, Economic Equality, and Social Justice* (Toronto: BTL Books, 2014).

[3] Interview with Maina Kiai, Special Rapporteur on freedom of peaceful assembly and of association (McGill University, October 23, 2013), Online: YouTube: <http://www.youtube.com/watch?v=FpoaQI5U9Gs>

[4] *Supra*, note 3. See also *Voices-Voix Submission to 16th session of the Universal Periodic Review Working Group of the Human Rights Council* (22 April - 3 May 2013). Online: <http://voices-voix.ca/en/document/voices-voix-submission-un-universal-periodic-review>.

organizations. Also targeted are academics, Indigenous individuals, organizations and communities who exercise their right to dissent and who seek to protect and promote human rights.[5]

The documented tactics and measures used by the federal Government of Canada include:

- The monitoring and surveillance of Indigenous organizations, environmental groups and human rights defenders engaged in lawful activities.[6] As well, there is evidence that Canadian security authorities have shared sensitive investigative information with private sector interests and with other government agencies.[7]
- The targeted defunding of leading international development organizations,[8] Indigenous groups,[9] women's equality and pay equity groups,[10] and social justice groups.[11]

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[5] Les Whittington, "Conservatives dismantling social programs built over generations," *Toronto Star* (December 9 2013). Online: http://www.thestar.com/news/canada/2013/12/09/conservatives_dismantling_social_programs_built_over_generations.html

[6] See notes 3 and 6, and accompanying text. The alleged surveillance of human rights defender Cindy Blackstock, see the findings of the Office of the Privacy Commissioner of Canada, *Aboriginal Affairs and Northern Development Canada wrongly collects information from First Nations activist's personal Facebook page* Findings Under the Privacy Act (2012—2013): Online: <http://www.priv.gc.ca/cf-dc/pa/2012-13/pa_201213_01_e.asp>. For a judicial analysis of allegations of reprisal and surveillance of Dr. Blackstock and the First Naions Child and Family Caring Society for their work advocating for Indigenous children on reserves in Canada, see *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada*, (2012) CHRT 2 24. With respect to reports and formal complaints about national security surveillance and related activities directed against environmental advocacy groups, Canadian media reported in 2013 on internal documents from the Royal Canadian Mounted Police (RCMP) referring to "a growing radicalized environmentalist faction within Canadian society that is opposed to Canada's energy sector policies" (Jim Bronskill, "RCMP Concerned About 'Radicalized Environmentalist' Groups Such As Greenpeace: Report," *The Canadian Press*, July 29, 2012.). Subsequent media reports have suggested that protests and opposition relating to the petroleum industry are regarded as threats to national security by the RCMP and other government agencies (Stephen Leahy, "Canada's environmental activists seen as 'threat to national security'," *The Guardian*, February 14, 2013). The media have also reported that the RCMP shared information with an independent regulatory agency, the National Energy Board, about "radicalised environmentalist" groups seeking to participate in the Board's hearings regarding the Northern Gateway Project. These groups include Canada's leading advocacy and environmental organizations (Leadnow, ForestEthics Advocacy, the Council of Canadians, the Dogwood Initiative, EcoSociety, and the Sierra Club of British Columbia). Canada's surveillance of these organizations, which oppose pipeline activities in northern Canada, is now the subject of formal complaints by the BCCLA, which are the source of the references in this note. Online: <http://bccla.org/2014/03/complaint-against-rcmp-and-csis-spying-moves-to-the-next-level/ >.

[7] See *Complaint re Surveillance of Canadian Citizens and Information Sharing with the National Energy Board to the Commission for Public Complaints against the RCMP* (filed by the BCCLA, February 6, 2014); *Complaint re Surveillance of Canadian Citizens and Information Sharing*
*with the National Energy Board* (filed by the BCCLA, February 6, 2014). Both are available online: BCCLA <http://bccla.org/dont-spy-on-me/>.

[8] Pearl Eliadis, Nikki Skuce, and Fraser Reilly, "Silencing Voices and Dissent in Canada," *State of Civil Society Report* (CIVICUS, 2013). Online CIVICUS: http://socs.civicus.org/?p=3825.

[9] Documents obtained from Canadian authorities indicate that since 2006 Canada's federal government has closely monitored indigenous communities across Canada that engage in direct action for protection of their territories, including the Tobique First Nation, Tsartlip First Nation, Algonquins of Barriere Lake, Teztan Biny (Fish Lake) First Nation, Six Nations, Grassy Narrows, Stz'uminous First Nation, the Likhts'amsiyu Clan of the Wet'suwet'en First Nation, Gitxaala First Nation, Wagmatcook First Nation, Innu of Labrador, Pikangikum First Nation. See Russell Diabo and Shiri Pasternak, "First Nations under Surveillance: Harper Government Prepares for First Nations "Unrest." Media Co-op (June 7, 2011), <http://www.mediacoop.ca/story/first-nations-under-surveillance/7434>; Martin Lukacs and Tim Groves, "RCMP spied on B.C. natives protesting pipeline plan, documents show" *Toronto Star* (May 9, 2012). See also the BCCLA complaints, see note 8, above.

[10] See e.g. the documentation provided in case studies developed by the Voices-Voix coalition on defunding of multiple women's groups by Status of Women Canada, <http://voices-voix.ca/en/facts/profile/status-women-canada > and Health Canada, <http://voices-voix.ca/en/facts/profile/reseau-quebecois-daction-pour-la-sante-des-femmes >. See in particular: defunding of: National Network on Environments and Women's Health, <http://voices-voix.ca/en/facts/profile/national-network-environments-and-womens-health >; New Brunswick Coalition for Pay Equity, <http://voices-voix.ca/en/facts/profile/new-brunswick-coalition-pay-equity >; Réseau québecois d'action pour la santé des femmes, < http://voices-voix.ca/en/facts/profile/reseau-quebecois-daction-

- Public vilification and smear campaigns against environmental groups and human rights defenders,[12] as well as the orchestration of such campaigns with groups having close ties to government.[13]
- Increasingly restrictive interpretations of tax law by federal revenue authorities to strip established environmental and human rights organizations of their charitable status or to impose significant regulatory burdens, thereby limiting their effective operation and capacity to raise funds.[14]
- Reprisals against government whistleblowers, including a government lawyer who has challenged the federal Government's failure to advise Parliament of new legislation that is likely to violate the Canadian Charter of Rights and Freedoms (which implements many of Canada's international human rights obligations) and well as international human rights law itself.[15]

Every elected government has the right to pursue its policies and agenda: LRWC submits, however, that attacks go further and inhibit legitimate work of CSOs and human rights defenders.

## III. International Standards

Monitoring, surveillance, and information sharing with other government agencies and with private sector interests create a chilling effect for groups and individuals who wish to participate peacefully in public processes. Such activities also interfere with privacy. The rights to privacy, freedom of expression, opinion, association, and peaceful assembly are protected by the *International Covenant on Civil and Political Rights*, notably Articles 17, 18, 19, 21, and 22.

In May 2012, Mr. Maina Kiai outlined best practices for the rights to freedom of peaceful assembly and of association, including for CSOs.[16] Mr. Kiai noted that the "right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment," including the obligation to ensure that organizations can operate freely, without fear of smear campaigns. He further noted that associations pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection, stating: "Associations should enjoy, inter alia, the rights to express opinion, disseminate information, engage with the public

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pour-la-sante-des-femmes >; Sisters in Spirit, < http://voices-voix.ca/en/facts/profile/sisters-spirit >; South Asian Women's Centre, <http://voices-voix.ca/en/facts/profile/south-asian-womens-centre >; the Women's Legal Education and Action Fund (LEAF), <http://voices-voix.ca/en/facts/profile/womens-legal-education-and-action-fund-leaf >; and the Feminist Alliance for International Action (FAFIA), <http://fafia-afai.org/ > to name a few.

[11] See e.g., documentation provided in Voices-Voix case studies on funding cuts to the Canadian HIV/AIDS Legal Network, <http://voices-voix.ca/en/facts/profile/canadian-hivaids-legal-network>; Canada without Poverty, <http://voices-voix.ca/en/facts/profile/canada-without-poverty >, the Centre for Equality Rights in Accommodation, <http://voices-voix.ca/en/facts/profile/centre-equality-rights-accommodation> and Court Challenges Program, <http://voices-voix.ca/en/facts/profile/court-challenges-program >.

[12] In some cases, rhetorical vilification has carried implicit or even explicit overtones of criminalization and subversive activity. The Hon. Joe Oliver, Minister of Natural Resources in 2012 accused environmental and "other" groups of being "radical" and pursuing a "radical ideological agenda." Open Letter, Government of Canada: Online: http://www.nrcan.gc.ca/media-room/news-release/2012/1/1909. The public vilification of such groups has targeted such well-established and respected CSOs as Environmental Defence, Tides Canada, the David Suzuki Foundation and the Sierra Club Canada Foundation. Kristin Courtney, "Canadian resource firms step up legal fight against green groups" (Thomas Reuters Foundation, 22 January 2013).

[13] See "Aboriginal communities and environmental groups," Voices-Voix Documentation Project. Online: <http://voices-voix.ca/en/facts/profile/aboriginal-communities-and-environmental-groups> See also Note 13 above.

[14] Targeted organizations include: Canadian Mennonite magazine, <http://www.canadianmennonite.org/articles/canadian-mennonite-warned-political-activities >; Physicians for Global Survival, <http://voices-voix.ca/en/facts/profile/physicians-global-survival>; Sierra Club Canada Foundation, supra note 13; Tides Canada, supra note 13.

[15] See e.g. the case of Edgar Schmidt, currently before the Federal Court of Canada. See the compendium of court proceedings at http://charterdefence.ca/court-proceedings.html. For a case summary, see Canadian Journalists for Free Expression, <http://www.cjfe.org/resources/features/update-canadian-whistleblower-edgar-schmidt> .

[16] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/20/27, online: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A.HRC.20.27_En.pdf.PDF.

and advocate before Governments and international bodies for human rights." Finally, he underscored that the ability of associations to access funding and resources is integral and vital to freedom of association.[17]

## IV. Conclusion

The ability to participate freely and meaningfully in debates on key public policy and political questions engages Canada's international human rights obligations such as obligations to ensure freedoms of opinion, expression, peaceful assembly, and association. It further engages with the growing emphasis on the processes and mechanisms that facilitate and enable the exercise of these rights and freedoms, including an enabling environment, the duty to negotiate, to consult, to accommodate, and to participate in democratic governance.[18]

Some mechanisms that foster the role of civil society to participate in policy debates are the availability of spaces for inclusive dialogue with governments, the meaningful opportunity to influence policy agendas, a legal and policy framework that facilitates collective organizing, and the ability to fundraise. While Canada is to be applauded for recent efforts in 2014 to respond to these criticisms and develop a framework for an enabling environment, the reality on the ground for CSOs and human rights defenders remains troubling.

Restrictive and punitive tactics deployed by the federal government of Canada have reduced the operating and fundraising capacity of human rights defenders and CSOs that oppose government policies. One particularly troubling trend is the selective targeting of organizations by Canadian revenue authorities to strip certain organizations of their charitable status. Another is the public vilification of those with whom the government disagrees, leading the public to believe that CSOs and human rights defenders engaged in lawful activities are dangers to the State to be surveilled and spied upon with impunity.

## VII. UN Human Rights Council Mandate

The United Nations Human Rights Council is mandated to promote and protect human rights by, *inter alia*, preventing violations, removing obstacles to enforcement, engaging states in dialogue, and making recommendations for the protection of human rights.[19] The Council should affirm the illegality of monitoring and surveillance activities directed against the peaceful and lawful activities of CSOs and human rights defenders that promote environmental protection, Indigenous Peoples' rights and fundamental rights and freedoms. The Council should encourage Canada to undertake practical measures to reinstate an enabling environment for CSOs and human rights defenders in Canada, including the cessation of surveillance and intimidation of peaceful CSOs and human rights defenders, and the development of more modern tax framework for charitable activities that allows CSOs and individuals to participate freely in democratic governance.

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[17] Ibid.

[18] See e.g. Colleen Sheppard, "Inclusion, Voice and Process-based Constitutionalism" (2013) 50:3 Osgoode Hall LJ 547.

[19] General Assembly Res. A/RES/48/141 20 Dec. 1993, articles 3 (a), (f), (g), and General Assembly Res.A/RES/60/251, 3 Apr. 2006, art. 5(i).

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**Human Rights Council**
**Twenty-sixth session**
Agenda item 6
**Universal Periodic Review**

# Joint written statement* submitted by CIVICUS - World Alliance for Citizen Participation, a non-governmental organization in general consultative status, the Arab NGO Network for Development, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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*1404294*

Please recycle

# Human rights conditions in Yemen*

The Arab NGO Network for Development (ANND), the Yemen-based Human Rights Information and Training Center (HRITC) and CIVICUS: World Alliance for Citizen Participation welcome Yemen's cooperation and positive engagement with its Universal Period Review (UPR) examination on 29 January 2014. While we commend the government's acceptance of all 166 recommendations received during its review, we urge the government to ensure the full realization of these explicit commitments by adopting and implementing related legislative measures and policy reforms at the national level.

During Yemen's examination, continued restrictions on the right to freedom of expression, association and peaceful assembly were raised by a number of governments. The freedoms of peaceful assembly, association and expression which are fundamental to civil society serve as crucial facilitating rights to ensure the exercise of other civil, cultural, economic, political and social rights. Their indivisibility and interrelatedness with other human rights act as an imperative barometer of a state's respect for the full gamut of rights.

In line with recommendations accepted by Yemen, we urge the government of Yemen to create a safe and enabling environment for civil society in accordance with the rights enshrined in the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights. Accordingly, the ongoing persecution of journalists and writers for discussing sensitive political issues and exposing corruption must immediately cease. The government must take proactive steps to end the pervasive culture of impunity by ordering prompt, impartial and independent investigations into all cases of attacks, harassment and intimidation of civil society activists and journalists.

During its UPR examination, Yemen accepted a number of recommendations to reduce poverty and address acute unemployment. Currently, nearly 54% of Yemenis live below the poverty line and the unemployment rate stands at 40% and over 60% among youth. However, the 2014 Yemeni budget allocates more than 3.5 billion USD for defense and security purposes compared to approximately 1 million USD for the Ministry of Human Rights, and around 500,000 USD to the ministries of education and health combined. We remain concerned that this vast discrepancy in resource allocation will undermine the government's ability to effectively realize these rights. Moreover over dependence on oil as major source of income restricts government's ability and necessitates prioritizing economic diversification and supporting productive sectors.

Similar to its UPR review in 2009, Yemen's examination during the second cycle witnessed a strong focus on advancing women's rights. Approximately 50% of women continue to suffer from domestic violence in Yemen and while the Gender Inequality Index ranks Yemen 148th out of 187 countries, the 2012 Global Gender Gap Report list Yemen as the "the worst" in gender disparities in economic, political, education- and health-based crite .a. In order to address these and other unwarranted restrictions on fundamental women's rights, we call on the government to ensure the genuine implementation of national policies on education and healtl in line with Yemen's obligations under CEDAW.

Although the government of Yemen made commitments to provide universal primary education during its UPR examination and despite the existence of several national strategies coordinated by Ministry of Education, the situation in Yemen remains bleak, with illiteracy rates at 62.1%. In addition, gender-based discrimination continues to undermine the universal enjoyment of the right to education, with female illiteracy rate standing at 70.2% compared to 29% for men. Accordingly, we call on the government to prioritize measures to tackle high illiteracy rates for girls in Yemen by criminalizing child marriage and adopting and implementing the Child Rights Law setting the minimum age of marriage at 18.

Despite the government's acceptance of all recommendations regarding the right to health, the poor quality of health services and limited financial and human resources earmarked for the sector continue to subvert the full enjoyment of this right. In Yemen, under-five mortality rate stands at 77 per 1000 live births while 58% of children under 5 suffer from stunting. Moreover, due to limited access to maternal health care, Yemen's maternal mortality rate, while witnessing a downward trend, remains high, with 365 maternal deaths per 100,000. We call on the government to

allocate greater and effectively managed resources to the health sector to increase the quality of services and to ensure availability and accessibility for all Yemeni citizens.

While we welcome the government's submission of a draft law on the establishment of a National Human Rights Institution, we urge the government to ensure that the NHRI complies fully with the Paris Principles. We further call on the government to substantively and regularly consult with independent national civil society groups in this process.

Finally, following the government's recent decision to institute a federal structure of governance, we urge the government to ensure that Yemen's international human rights obligations remain a stalwart pillar of the federal system. We further call on the government to ensure that the proposed constitution clearly provides for adequate protection of human rights at the federal, regional and local levels.

In accordance with its obligations under the international human rights treaties, we call on the government of Yemen to effectively monitor the implementation of all recommendations accepted during its second UPR review in cooperation with all relevant stakeholders including civil society organizations.

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* Human Rights Information and Training Center NGO(s) without consultative status, also share the views expressed in this statement.

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**Human Rights Council**
**Twenty-sixth session**
Agenda item 7
**Human rights situation in Palestine and other occupied Arab territories**

# Joint written statement* submitted by the BADIL Resource Center for Palestinian Residency and Refugee Rights, a non-governmental organization in special consultative status, Mouvement contre le racisme et pour l'amitié entre les peuples, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

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# The particular responsibility of private companies in territories under foreign occupation: the case of the Occupied Territory of Palestine (OPT)

When a territory is non self-governed or is under military occupation, besides the well known and recognized States responsibilities and obligations under international law and international humanitarian law, the role and responsibility of private companies must also be considered and duly evaluated in light of the human rights abuses of the people living under occupation. This becomes even more important when private companies may be considered as accomplices to war crimes and crimes against humanity.

The Russell Tribunal on Palestine[1] at its second session (London, 20-22 November 2010) examined International corporate complicity in Israel's Violations of International Human Rights Law, International Humanitarian Law, and War Crimes.

In its concluding remarks[2], the Russell Tribunal on Palestine noted, *inter alia*, that:

- Although customary international law and international treaties are silent on whether corporations have direct legal obligations under international law, corporations can infringe on the rights recognized in international human rights and humanitarian law instruments. Furthermore, the initiatives of the international community, voluntary codes of conduct, and in some cases, domestic legal systems use these standards to hold corporations to account for their conduct. Thus, corporations do have real and substantive obligations that may be enforced through international initiatives and/or domestic legal systems.

- … a number of corporations provide a range of services that assist in the construction and maintenance of illegal Israeli settlements in the OPT. According to evidence heard by the Tribunal, 1400 Israeli corporations are very active in settlements, and there are three large industrial zones, with approximately twelve large Israeli corporations whose activities require particular attention. The database of „Who Profits from the Occupation includes documentation that reveals 400 corporations, Israeli and non-Israeli, supporting the illegal settlements.

- These corporations are intimately involved with settlements, either by engaging in economic relations with them … by supplying them with the means to violate Palestinian human rights. Indeed, without this, settlements would not exist as urban communities connected to the outside world.

- In view of the criminal nature of the Israeli settlements and/or the criminal offences committed to enable settlements to be built and maintained, the economic relations that some corporations entertain with the settlements may be viewed as participation in their maintenance. Depending on the form that the relations assume, and depending on the domestic criminal law of a given jurisdiction, participation in a crime, including the criminal liability in some jurisdictions may be characterised as complicity, handing and/or receiving stolen goods, or laundering.

- The establishment of Israeli settlements in the occupied territories constitutes a war crime. Additional Protocol I characterises "the transfer by the occupying Power of parts of its own civilian population into the territory it occupies" as a "war crime" (Art. 85, § 4 (a); see also ICC Statute, Art. 8, § 2 (b) (viii); draft Code of Crimes against the Peace and Security of Mankind, Art. 20 (c) (i)). This characterisation is not altered by Israel's non-ratification of the Additional Protocol I and the Rome Statute of the ICC, but affects the possibility of individual criminal liability being applied against Israeli nationals for those specific offences. However, as settlements almost always involve the extensive appropriation of property not justified by military necessity, criminalised in article 147 of the IVth Geneva Convention, which Israel has ratified, the primary acts of Israelis in building and living in illegal settlements can lead to their individual criminal liability and such liability can be attached to all those who aid and abet Israelis in building and living in those settlements.

[1] http://www.russelltribunalonpalestine.com/en/

[2] http://www.russelltribunalonpalestine.com/en/sessions/london--session

- In view of the criminal nature of the Israeli settlements and/or the criminal offences committed to enable settlements to be built and maintained, the economic relations that some corporations entertain with the settlements may be viewed as participation in their maintenance. Depending on the form that the relations assume, and depending on the domestic criminal law of a given jurisdiction, participation in a crime, including the criminal liability in some jurisdictions may be characterised as complicity, handing and/or receiving stolen goods, or laundering.

- A corporation's relations with a settlement are a type of conduct that "abets or [...] assists" (ICC Statute, Art. 25, § 3 (c) *supra* § 22) the settlement's continued existence. The fact that such participation occurs after the act initiating the crime does not preclude its designation as "complicity" since the settlements constitutes a *continuing* offence.

- The location of the Israeli settlements is not in doubt and corporations therefore cannot be unaware that their activities are assisting in Israel's crime.

- This applies to activities such as the construction of buildings (AFIGROUP), the manufacture, sale and export of cosmetics (AHAVA – Dead Sea Laboratories Ltd. and Shamrock Holdings of California), the running of service stations and businesses (Alon Group), bank funding of the settlements (Dexia), granting of bank loans for the purchase of settlement property (Leumi and Hapoalim banks), and the construction and running of a tramline in East Jerusalem (Alstom and Veolia Transport).

- There is a precedent for the conclusion that such activities may constitute complicity in the crimes in question, namely the UNGA characterisation of the activities of foreign interests in South Africa in the late 1960s, activities that were then deemed to encourage apartheid.

- ... as the economic activities undertaken by corporations in the israeli settlements contribute to the perpetuation of the settlements, they constitute complicity in a war crime.

- Deliveries of certain types of equipment such as the Caterpillar D9 bulldozers used to demolish houses or to damage land belonging to Palestinians, and to construct Israeli buildings, constitute complicity in war crimes involving not only the creation and maintenance of settlements but also the destruction or arbitrary and large-scale appropriation of property without military justification (see Nuremberg IMT Statute, Art. 6, b and IV[th] Geneva Convention, Art. 147).

- The International Court of Justice, in its consideration of the legality of the Wall[3], held that Israel "has the obligation to make reparation for the damage caused to all the natural and legal persons concerned." The State of Israel has an obligation to make reparations to Palestinian corporations adversely affected by the establishment of the Wall; this may be as a result of Israel's conduct and any assistance it has received from corporations.

- The violations of IHL committed by Israel during the assault in the Gaza incursion, in the establishment of maintenance of the illegal Israeli settlement, and in the construction of the illegal Wall constitute war crimes and/or crimes against humanity. These crimes have been committed with weapons, materials, equipment and services supplied by corporations such as Elbit Systems, Caterpillar and Cement Roadstone Holdings. These corporations have therefore assisted Israel in the commission of war crimes and may be liable for complicity in these crimes and violations of international law.

- Criminal responsibility under international law for accomplice liability includes various forms of support provided by individuals (including corporate actors), such as the provision of arms and associated material, communication equipment, and other supplies which all go towards facilitating the commission of international crimes

[3] International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004)

**Recommendation**

In the context of the longstanding occupation of the Palestinian Territory and considering the widespread, grave and continuous violations of human rights perpetrated by the State of Israel, amounting to war crimes and crimes against humanity, the international community cannot ignore the role the private companies play in such a situation.

We call upon the Human Rights Council to consider seriously the role and responsibilities of private companies in human rights violations, war crimes and crimes against humanity related to the occupation of the Palestinian territory by the State of Israel.

United Nations A/HRC/26/NGO/80

General Assembly

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**Human Rights Council**
**Twenty-sixth session**
Agenda item 3
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Joint written statement* submitted by Asian Legal Resource Centre, International Association for Religious Freedom, International Council of Women / Conseil International des Femmes, non-governmental organizations in general consultative status, International Association of Peace Messenger Cities, Abibimman Foundation, Abiodun Adebayo Welfare Foundation, Albert Schweitzer Institute, The, American Association of Jurists, Amis des Etrangers au Togo (A.D.E.T.), Amman Center for Human Rights Studies, Arab African American Womens' Leadership Council Inc., Armenian Constitutional Right-Protective Centre, Association of War-Affected Women, Association pour l'Intégration et le Développement Durable au Burundi, Association Tunisienne des Droits de l'Enfant, Autre Vie, Bangwe et Dialogue, Bangwe et Dialogue, Centre d'accompagnement des alternatives locales de développement, Centro Integrado de Estudos e Programas de Desenvolvimento Sustentável, Commission africaine des promoteurs de la santé et des droits de l'homme, Corporación Red Nacional de Mujeres Comunales, Comunitarias, Indígenas y Campesinas de la República de Colombia, Edmund Rice International Limited, Federation

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

# Contributions of the civil society organizations to the future declaration on the human right to peace*

I.

On 5 July 2012, the Human Rights Council adopted resolution 20/15 on "The promotion of the right to peace" by a vote of 34 in favour, one against (United States) and 12 abstentions (European States and India). The resolution welcomed the contribution of CSOs and established an open-ended working group (OEWG) with the mandate of progressively negotiating a draft UN Declaration on the right to peace on the basis of the draft submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals[1].

The first session of the OEWG was held from 18 to 21 February 2013 in Geneva. At its 23rd session (June 2013), the HR Council has before it the first progress report of the OEWG[2]. On this session, the Council decided to extend the mandate of the OEWG, calling it to celebrate its second session at the beginning of 2014[3]. This session has not been celebrated yet, waiting for the new text of the Chairperson-Rapporteur.

In October and November 2013, the Chairperson-Rapporteur of the OEWG, held meetings with representatives of the States and the civil society in order to discuss about the elements that must take part of the future Declaration on the right to peace.

During his meeting with the CSO, the Chairperson disclosed that some States are in favor of the right to peace and others not; and that his task is to find points of convergence. The Chaiperson stated also that he will not support other approach than a consensual text; so it would not deal with issues that are, in his view, out of the human rights agenda, such as the right to disarmament; or issues that should be discussed in other forum, such as the issues related to the Security Council. He also stated that, in case the OEWG can not reach a consensus, there would be no place for a vote by the Human Rights Council or the General Assembly, which some CSO opposed[4].

The Chairperson-Rapporteur must now prepare a new draft declaration, to be submitted to the OEWG during its second session in June 2014.

During the last months, the SSIHRL has participated in several actions of promotion of the human right to peace[5].

II.

The undersigned CSOs invite the HR Council to endorse the AC declaration and to take into consideration 15% of the standards contained in the 2010 *Santiago Declaration* that were not accepted by the AC. We also invite the OEWG to clarify the legal content of the emerging human right to peace. We trust that States will be respectful of the established IHRL standards related to the human right to peace. Moreover, the on-going standard-setting process should take into account some elements of progressive development of IHRL, as proposed by relevant human rights protection mechanisms or by CSOs.

In particular, the OEWG should consider the following human rights standards:

**A. Title: Draft UN Declaration on the right to peace**

The title should add the concept of "human" to the right to peace, following the UN Declaration on the Right to Development[6]. In addition, the right to peace has a solid foundation in the UN Charter, whose main purpose is the

[1] See the report on the adoption of the resolution at http://www.acdidh.org/sites/default/files/ReportHRCouncil.pdf

[2] A/HRC/WG.13/1/2 of 26 April 2013, 17 p.

[3] Resolution 23/16, of 13 June 2013.

[4] See a full report on the meeting at: http://acdidh.org/sites/default/files/Report_6.pdf

[5] See: A/HRC/23/NGO/96 and http://acdidh.org/?q=node/2198

maintenance of international peace and security. Moreover, the concept of the right to peace has been recognized in both international[7] and regional human rights instruments[8].

**B. Preamble**

The Preamble should also make a clear reference to the main legal standards of the UN Charter[9]; Constitutions of the UN Specialized Agencies[10] and other legal instruments[11]. The Preamble should also pay tribute to peace movements and ideas that have marked over the history of humankind[12].

**C. Right to peace: Principles (article 1)**

Individuals, peoples, minorities and humankind should be recognised as right-holders of the human right to peace in accordance with the preamble of the UN Charter[13] and other different human rights instruments[14].

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[6] Art. 1.1 of the 1986 GA Declaration on the Right to Development states that "the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized".
Art. 1.2 states that "the human right to development also implies...."

[7] The GA Declaration on the Preparation of Societies for Life in Peace (res. 33/73 of 15 December 1978) and the GA Declaration on the Right of Peoples to Peace (res. 39/11 of 11 November 1984)

[8] The 1981 African Charter on Human and Peoples' Rights, the 2005 Ibero-American Convention on Young People's Rights and the Declaration on Human Rights adopted on 18 November 2012 by the Association of Southeast Asian Nations (ASEAN).

[9] Prevention of war, removal of various threats to peace, respect for the principle of non-use of force, peaceful settlement of conflicts, development of confidence-building measures, promotion of human rights and freedoms and the enhancement of the quality of life

[10] The Constitution of International Labour Organisation (ILO) says that "lasting peace can be established only if it is based on social justice".
The Constitution of the Food and Agriculture Organization (FAO) states that it is aimed to the improvement of the levels of life and nutrition of all peoples, as well as to the eradication of hunger.
The Constitution of the World Health Organization (WHO) states that "the health of all peoples is fundamental to the attainment of peace and security"
The Preamble to the Constitution of the United Nations Educational, Scientific and Cultural Organization (UNESCO) states that "since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed".

[11] The African Charter on Human and Peoples' Rights of 1981, the Ibero-American Convention on Young People's Rights of 2005 and the 2012 Declaration on Human Rights adopted by the Association of Southeast Asian Nations (ASEAN).
Para. 32 of the 2000 UN Millennium Declaration states that the United Nations is the common house of the entire human family, where it should realize its universal aspirations for peace, cooperation and development. The 2005 World Summit Outcome Document
Security Council resolutions 1325 (2000), 1820 (2008), 1888 and 1889 (2009), 1960 (2010) and 2106 (2013) on women, peace and security

[12] the 1999 Hague Agenda for Peace and Justice for the Twenty-first Century; the 2000 Earth Charter; and the 2010 Universal Declaration of the Rights of Mother Earth

[13] The Preamble of the UN Charter states that "...to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind"

[14] The Preamble of the UDHR states that "whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". The Preamble of both the ICCPR and ICSCR states that "...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world".
The Preamble of the 1978 Declaration on the Preparation of Societies for Life in Peace says that "The General Assembly... (...) Reaffirming the right of individuals, States and all mankind to life in peace... Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace. The 1984 Declaration on the Right of Peoples to Peace "...1.

This right shall be implemented without any distinction or discrimination for reasons of race, descent, national, ethnic or social origin, colour, gender, sexual orientation, age, language, religion or belief, political or other opinion, economic situation or heritage, diverse physical or mental functionality, civil status, birth or any other condition.

**D. Human security (article 2)**

Development, peace, security and human rights are mutually reinforcing and peace and justice encompass an economic dimension in accordance with several Declarations[15]. In addition, it should be recalled the UN Secretary-General reports on this topic[16].

**E. Disarmament (article 3)**

There is a close relationship between right to disarmament and IHRL. The Human Rights Committee recognized (General Comment No. 14 on article 6 ICCPR of 9 November 1984) the relationship between nuclear weapons and the right to life[17]. This approach also founds expression in the UN Charter[18] and other human rights instruments[19].

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Solemnly proclaims that the peoples of our planet have a sacred right to peace; 2. Solemnly declares that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State;..."

Art. 38 of the ASEAN Declaration on Human Rights states that "Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realized...."

[15] Principle h) of the 1974 Universal Declaration on the Eradication of Hunger and Malnutrition states that "... Peace and justice encompass an economic dimension helping the solution of the world economic problems, the liquidation of under-development, offering a lasting and definitive solution of the food problem for all peoples..."

Paragraph 72 of the the 2005 Outcome World Summit Document states that "... no State can best protect itself by acting entirely alone and that all States need an effective and efficient collective security system pursuant to the purposes and principles of the Charter"

[16] Paragraphs 43-44 of the "An agenda for peace. Preventive diplomacy, peacemaking and peacekeeping" indicated that an integrated approach to human security would be related to the deepest causes of war, such as economic despair, social injustice and political oppression.

In paragraph 25-126 of "In Larger Freedom: Towards Development, Security and Human Rights for All" the former Secretary-General stated that this concept is linked to the twin values of freedom from fear and freedom from want.

[17] The HR Committee stated that the "designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront humankind today". It also stated that "the development and proliferation of weapons of mass destruction not only threaten human life but also absorb resources that could otherwise be used for vital economic and social purposes, particularly for the benefit of developing countries, and thereby for promoting and securing the enjoyment of human rights for all ».

[18] Article 26 of the UN Charter envisages an international system based on the "least diversion for armaments of the world's human and economic resources"

[19] The Preamble of the Declaration on the Right to Development reaffirmed that "there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries". In addition, article 7 states that "all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries". The 1987 International Conference on the Relationship Between Disarmament and Development was the basis to define the relationship between disarmament and development; examine the magnitude and consequences of military expenditure on the world economy and on development; and explore ways to release resources for development through disarmament.

In addition, States should focus on the efforts towards general and complete disarmament, under effective international control[20]. Furthermore, it should be recognized the establishment of Peace Zones free from nuclear weapons[21], as well as the women's contribution to disarmament. [22]

The adoption in April 2013 of the Arms Trade Treaty[23] is a major achievement, but it is not enough to reach a general and complete disarmament[24].

**F. Peace education and training (article 4)**

The right to education on peace and human rights is deeply rooted in both international[25] and regional human rights

[20] Art. 6 of the Declaration on the Preparation of Societies for Life in Peace states that "a basic instrument of the maintenance of peace is the elimination of the threat inherent in the arms race, as well as efforts towards general and complete disarmament, under effective international control. "
Art. 3 of the Declaration on the Right of Peoples to Peace emphasizes that "ensuring the exercise of the right of peoples to peace demands that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations".

[21] The current treaties establishing peace zones free of nuclear weapons are the following: Antarctic (1961); Outer Space (1967); Tlatelolco (Latin America and Caribbean, 1969); Seabed (1972); Rarotonga (South Pacific, 1986); Bangkok (ASEAN, 1997); MNWFS Mongolia (2000); Semei (Central Asia, 2009) and Pelindaba (Africa, 2009).

[22] Beijing Declaration and Platform for Action: "The full participation of women in decision-making, conflict prevention and resolution and any other peace initiative are essential to the realization of lasting peace". The United Nations Fourth World Conference on Women: Action for equality, development and peace, Beijing, China, September 1995, par. 23.
Security Council resolution 1325 (2000) on women, peace and security.

[23] Resolution 67/234 B of 2 April 2013. It was adopted by 154 States in favor (among them Spain and the United States), three against (Democratic People's Republic of Korea, Islamic Republic of Iran and Syria) and 23 abstentions (among them Belarus, Bolivia, People's Republic of China, Cuba, Ecuador, Egypt, India, Indonesia, Nicaragua, Russian Federation and Venezuela). It was opened to signature on 3 June 2013 and will enter into force once it receives 50 ratifications.

[24] See: http://www.aedidh.org/sites/default/files/TCAEnglish.pdf

[25] Article 26.2 of the Universal Declaration of Human Rights states that "education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace". Article 29 of the UN Convention on the Rights of the Child states that children's education should develop each child's personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. It should also help them learn to live peacefully, protect the environment and respect other people. Education should aim to develop children respect for the values and culture of their parents.
Article 13 of the International Covenant on Economic, Social and Cultural Rights states that "... recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace".
Art. 1 of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind states that "all States shall promote international co-operation to ensure that the results of scientific and technological developments are used in the interests of strengthening international peace and security, freedom and independence, and also for the purpose of the economic and social development of peoples and the realization of human rights and freedoms in accordance with the Charter of the United Nations".

instruments[26]. An education on tolerance and on gender equality geared towards overcoming negative construction of masculinities incited by militarism will be a necessary contribution in this sense.

### G. Right to conscientious objection to military service (article 5)

Human Rights Council decision 2/102 of 6 October 2006[27] and Commission on Human Rights resolutions 2004/35 of 19 April 2004[28] and 1998/77 of 22 April 1998[29], recognized the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in several human rights instruments[30]. The Human Rights Committee has also developed a consistent case-law practice in this regard[31]. Recently, the HRC has addressed once again this subject[32].

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Article 1 (II a.1) of the Declaration on the Preparation of Societies for Life in Peace states that "... to ensure that their policies relevant to the implementation of the present Declaration, including educational processes and teaching methods as well as media information activities, incorporate contents compatible with the task of the preparation for life in peace of entire societies and, in particular, the young generations".

[26] Goal 6 of the 2000 Dakar Framework for Action, Education for All states that "Education, both formal and non-formal, is therefore a key element to achieving sustainable development, peace and stability within and among countries, by fostering social cohesion and empowering people to become active participants in social transformation".
Article 13 of the Protocol of San Salvador on Economic, Social and Cultural Rights states that "... education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace".

[27] On 6 October 2006, the HR Council decided without a vote "to transmit the views of the Sub-Commission on Promotion and Protection of Human Rights on the Human Rights Council's future expert advice mechanism to the Working Group established pursuant to Human Rights Council decision 1/104".

[28] Paragraph 3 "calls upon States that have not yet done so to review their current laws and practice in relation to conscientious objection to military service..."; and paragraph 4 "encourages States, as part of post-conflict-peace building, to consider granting and effectively implementing amnesties and restitutions of rights, in law and practices, for those who have refused to undertake military services on grounds of conscientious objection".

[29] The preamble of the resolution recognized that conscientious objection to military service derives from principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives and that persons performing military service may develop conscientious objections. Paragraph 4 reminded "States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a noncombatant or civilian character, in the public interest and not of a punitive nature".

[30] Article 18 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".
Art. 18 of the International Covenant on Civil and Political Rights states that "1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice". In addition, Article 19.1 ICCPR states that "Everyone shall have the right to hold opinions without interference".

## H. Private military and security companies (article 6)

PMSC staff have not only contributed to the formation of trafficking networks for the exploitation and sexual abuse of women, but they have also on occasion been involved in their creation directly in total impunity due to the lack of an international legislative framework.

The PMSCs should be accountable for human rights violations in accordance with the international human rights law[33]. In addition, related national legislation will never be successful without a coordinated response by the international community to the increasing role of the private sector in war and peace. To this purpose, the HRC created on 2010, an open-ended intergovernmental working group "with the mandate to consider the possibility of elaborating an international regulatory framework"[34].

## I. Resistance and opposition to oppression (article 7)

Resistance to oppression is founded in the Preamble of the UDHR[35] and was developed by the Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations (General Assembly res. 2625 (XXV) of 24 October 1970) and other human rights instruments, which recognised inter alia the duty of every State to promote the realization of the right of peoples to self-determination[36].

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Paragraph 11 of the General Comment No. 22 (1993) of the Human Rights Committee states that "Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief...."

[31] *Yeo-Bum Yoon and Myung-Jin Choi v. Republic of Korea*, communications Nos. 1321/2004 and 1322/2004, docs. CCPR/C/88/D/1321-1322/2004 of 3 November 2006, para. 8.3; *Eu-min Jung et al. v. The Republic of Korea*, communications Nos. 1593 to 1603/2007, docs. CCPR/C/98/D/1593-1603/2007 of 23 March 2010, paras. 7.2 and 7.4; *Min-Kyu Jeong et al v. Republic of Korea:*, communications No. 1642-1741/2007, docs. CCPR/C/101/D/1642-1741/2007 of 24 March 2011, para. 7.4.

[32] HR Council resolution 24/17 of 27 September 2013. It recognizes that conscientious objection "can be derived from the right to freedom of thought, conscience, religion or belief", it encourages States to provide forms of alternative service and to release individuals imprisoned or detained only on the basis of their conscientious objection to military service; and it encourages States to consider granting asylum to those conscientious objectors who have founded fear of prosecution.

[33] The UN Code of Conduct for Law Enforcement Officials of 1979; the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989; the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted in the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana from 27 August to 7 September 1990; the OUA Convention for the elimination of mercenarism in Africa of 1997; the UN non-binding Guidelines on the Use of Military and Armed Escorts for Humanitarian Convoys of 2001 and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law of 2005.

[34] Resolution 15/26, of 1st October 2010. Due to the lack of consensus amog States, the mandate has been extended until 2014 by resolution 22/33, of 22 March 2013.

[35] The Preamble states that "... Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law..."

[36] The Declaration of Principles of International Law Concerning Friendly Relations states that "...Every State has the duty to promote, through joint and separate action, realization of the principle

**J. Peacekeeping (article 8)**

States, the UN, its members and entities as well as the international community should recognize, scale up and support unarmed civilian peacekeeping. Civilians under threat of violent conflict have the right to physical protection and shall be offered unarmed civilian peacekeepers for their protection and in support of violence deterrence.

Numerous women's peace movements born in situations of conflict should be recognised and supported, and states should ensure their political participation in the prevention and resolution of conflict in light of their role as civil society movements.

**K. Right to development (article 9)**

Several declarations and instruments support the relationship between development and peace[37]. The right to development includes peace, security and disarmament; self-determination and soverignty over natural resources; and a social and internacional order conducive to development[38]. A transformed partnership based on equality between women and men is needed as a condition for people-centred sustainable development and world peace39. In addition, the role played by men and boys in advancing gender equality is vital40.

**L. Environment (article 10)**

The relationship between right to peace, development and right to environment, as well as the obligation to ensure to present and future generations a life in peace and in harmony with nature, was recognised in several instruments[41].

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of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle".

Common article 1 of ICCPR and ICESCR states that "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development"

Article 1.2 of the Declaration on the Right to Development states that "the human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources".

[37] Paragraph 32 of the Millennium Declaration states that United Nations is the common house of the entire human family, where it should realize its universal aspiration for peace, cooperation and development

Preamble of the Declaration on the Right to Development states that "international peace and security are essential elements for the realization of the right to development". Furthermore, article 1.1. indicates that "the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized".

The 2005 World Summit Outcome Document restated that human rights, peace and development are interrelated and interdependent and that the fostering of one promotes the realization of the others.

[38] Shyami PUVIMANASINGHE, "International solidarity in an interdependent world", in OHCHR, *Realizing the right to development*. New York and Geneva, 2013, p. 181.

[39] Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), paragraphs 1 and 132

[40] Report of the Expert Group Meeting that took place in Brasilia, Brazil from 21 to 24 October 2003: The role of men and boys in achieving gender equality. United Nations Division of Advancement of Women, EGM/MEN-BOYS-GE/2003/REPORT, 12 January 2004; Report of the Secretary General, Thematic issue before the Commission: the role of men and boys in achieving gender equality, Commission on the Status of Women, E/CN.6/2004/9, 22 December 2003.

[41] Goal 6 of the 1972 Stockholm Declaration states that "... for the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an

**M. Rights of victims and vulnerable groups (article 11)**

To be completed with the following standards from IHRL: the right of victims to an effective remedy[42]; taking a gender perspective and taking into account specific needs due to gender or sexual orientation; rights of victims of enforced or involuntary disappearances which may amount to a crime against humanity[43]; the right of all persons deprived of their liberty to have the right to be treated humanely and to save conditions of living, under judicial supervision[44]; the right of indigenous peoples[45]; and reference to the popular courts or tribunals of conscience and to institutions, methods, traditions or local customs of peaceful settlement of disputes[46].

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imperative goal for mankind-a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of worldwide economic and social development".

The Preamble of the 1982 World Charter for Nature states that "competition for scarce resources creates conflicts, whereas the conservation of nature and natural resources contributes to justice and the maintenance of peace and cannot be achieved until mankind learns to live in peace and to forsake war and armaments".

Principle of the the 1992 Rio Declaration on the Environment and Development 25 states that "Peace, development and environmental protection are interdependent and indivisible"

Principle 35 of the 2002 Johannesburg Declaration on Sustainable Development states that "we commit ourselves to act together, united by a common determination to save our planet, promote human development and achieve universal prosperity and peace".

Principle 8 of the outcome document of the 2012 Conference on Sustainable Development (« The future we want ») states that "we also reaffirm the importance of freedom, peace and security, respect for all human rights, including the right to development and the right to an adequate standard of living, including the right to food, the rule of law, gender equality, women's empowerment and the overall commitment to just and democratic societies for development".

[42] Article 8 UDHR states that "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law".

Art. 2.3 ICCPR states that "Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity"

Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination states that "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination."

Article 14.1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible..."

Article 83 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families states that "Each State Party to the present Convention undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy..."

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, 16 December 2005)

[43] International Convention for the Protection of All Persons from Enforced Disappearance, Articles 18.2, 20.2 and 22.

[44] Contribution of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to the Advisory Committee, 23 February 2013.

[45] Article 40 of the UN Declaration on the Rights of Indigenous Peoples states that "indigenous peoples have the right... to effective remedies for all infringements of their individual and collective rights.

[46] Article 164.f of the Programme of Action of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance of 2001 states that the "access to legal remedies

**N. Refugees and migrants (article 12)**

Migration and peace are closely related in accordance with international practice47. In addition, equality before the law and non-discrimination in the enjoyment of human rights are structural principles of IHRL48. Finally, the Fourth World Conference on Women in 1995 examined the situation of migrant women49.

**O. Obligations and implementation (article 13)**

Progressive development of the human right to peace should include the following issues: Reform of UN Security Council[50]; prohibition of preventive wars as crimes against peace; strengthening the UN Peace-building Commission; effective implementation of the Program of Action for a Culture of Peace[51]; further ratification of the Rome Statute of the ICC; and establishment of a working group on the human right to peace to monitor the implementation of the future Declaration[52].

should be facilitated for victims of discrimination and, in this regard, the innovation of conferring a capacity on national and other institutions, as well as relevant non-governmental organizations, to assist such victims should be seriously considered, and programmes should be developed to enable the most vulnerable groups to have access to legal system". In addition, article 164.g states that "new and innovative methods and procedures of conflict resolution, mediation and conciliation between parties involved in conflicts or disputes based on racism, racial discrimination, xenophobia and related intolerance should be explored and, where possible, estaablished".
Article 40 of the UN Declaration on the Rights of Indigenous Peoples states that "Indigenous peoples have the right... to effective remedies.... Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights."

47 International Conference on Population and Development: "poverty and environmental degradation, combined with the absence of peace and security, human rights violations and the varying degrees of development of judicial and democratic institutions are all factors affecting international migration". Doc. A/CONF.171/13, Cairo, 5-13 September 1994.
Program of Action of the World Summit for Social Development: "Social development is also clearly linked to the development of peace, freedom, stability and security, both nationally and internationally". A/CONF.166/9, Copenhagen, 14 March 1995.

48 Reference to these principles is to be found in the International Covenants on Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ILO Conventions No. 143 and 151 on migrant workers, ILO Convention concerning Migration for Employment, the UN Convention against Transnational Organized Crime and the outcome of the Durban Review Conference.

49 Beijing Declaration and Platform of Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), para. 46.

50 As agreed by the 2005 World Summit Outcome Document: «We support early reform of the Security Council - an essential element of our overall effort to reform the United Nations - in order to make it more broadly representative, efficient and transparent and thus to further enhance its effectiveness and the legitimacy and implementation of its decisions... » (GA res. 60/1 of 16 September 2005, para. 153).

51 *Ibidem*, para. 144.

52 It will be composed of ten independent experts elected by the General Assembly, with functions inspired in the best practices developed by the Human Rights Council special procedures.

**P. Final provisions (article 14)**

The final provisions should ensure that nothing within the Declaration goes against the principles of the United Nations or the IHRL, including the principle *pro persona*. The Declaration aims to encourage the enjoyment of human rights and not to be an obstacle to them.

**III.**

In conclusion, the legal content of the human right to peace should be further clarified by the OEWG. To this purpose, CSOs trust that the future declaration will respect the principles established in international human rights law, and not imply a step backward in this field. The Chairperson-Rapporteur of the OEWG should take into account on his new draft declaration the legitimate demands of the civil society, and States should accept them. Thus, CSOs trust the draft declaration will be submitted to vote by the Human Rights Council during its 27th session, and submitted to the General Assembly for adoption before the end of 2014.

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